



CITY OF DALLAS

July 11, 2023

**Via Certified Mail: 7017 1000 0000 9418 9045**

Charles Cooper  
314 Cedar Creek Drive  
Duncanville, TX 75137

RE: Appeal of Certificate of Demolition:  
Hearing – May 1, 2023  
1012 Betterton Cir., Case No. CD223-008(RD)

Dear Charles Cooper:

We have received your correspondence appealing the Landmark Commission's denial without prejudice of a Certificate of Demolition application for 1012 Betterton Circle. Please be advised that the City Plan Commission hearing for **this appeal is scheduled for Thursday, August 3, 2023.** The City Plan Commission meeting will be held in person and by video conference. Individuals who wish to speak, remotely via WebEx, in accordance with the City Plan Commission Rules of Procedure, should contact the Current Planning division at 214-670-4209 by the close of business Tuesday prior to the scheduled CPC Meeting date. Individuals can also register online at: <https://dallascityhall.com/government/meetings/Pages/city-plan-commission.aspx>.

Public Affairs and Outreach will also stream the public hearing on Spectrum Cable Channel 96 or Channel 99 and [bit.ly/cityofdallastv](http://bit.ly/cityofdallastv) or [YouTube.com/CityofDallasCityHall](https://www.youtube.com/CityofDallasCityHall).

The appeal of the decision of the Landmark Commission regarding the application for a Certificate of Appropriateness is a quasi-judicial action. **No communication with City Plan Commission members may occur outside the hearing of August 3, 2023.**

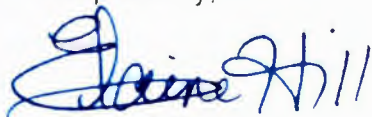
The Dallas Development Code, Section 51A-4.501(H) provides the procedures applicable to a Certificate of Appropriateness appeal. For your convenience, I have enclosed a copy of the ordinance containing the applicable section and a copy of the Appeal Procedures.

Charles Cooper  
314 Cedar Creek Dr.  
Duncanville, TX 75137

Included with this letter is the Landmark Commission record and other related paperwork. The Landmark Commission record includes all documents related to your specific case including a transcript of the January 2023 Landmark Commission hearing. As I mentioned in the email on February 9, 2023, should you wish to provide the City Plan Commission a brief on the matter, submit a copy to me at Dallas City Hall, 1500 Marilla Street, Room 5CN, Dallas, TX 75201 or to [phyllis.hill@dallas.gov](mailto:phyllis.hill@dallas.gov) by **5:00 p.m. Friday, July 14, 2023** **(The deadline has been extended to 5:00 p.m. Monday, July 17, 2023)**. I will then distribute a copy of your brief to the City Plan Commission. I will also send you a copy of the brief by the Assistant City Attorney's office.

You may contact me @ 214-670-4206 or email me at [Phyllis.hill@dallas.gov](mailto:Phyllis.hill@dallas.gov) if there are any questions regarding the deadline dates. You are encouraged to contact Assistant City Attorney Daniel Moore at 214-670-7027 if you have any questions regarding the format of the City Plan Commission hearing or other related matters.

Respectfully,



Elaine Hill  
Landmark Commission  
Coordinator  
Office of Historic Preservation

cc: Kate Singleton, Chief Preservation Planner  
Julia Ryan, Interim Director, Office of Historic Preservation  
Daniel Moore, Assistant City Attorney  
Marissa Hines, Assistant City Attorney  
Laura Morrison, Assistant City Attorney  
Theresa Pham, Assistant City Attorney  
Dr. Rhonda Dunn, Senior Planner,  
Office of Historic Preservation

# **THE RECORD**

1012 Betterton Circle

**APPEAL**

CD223-008(RD)

City Plan Commission

Hearing

08/03/2023

VIA CERTIFIED MAIL 7017 1000 0000 9418 9045

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1012 Betterton Circle CD223-008(RD)

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# SECTION 1

Certificate of Demolition

1012 Betterton Circle  
CD223-008(RD)

City of Dallas Landmark Commission

C. D. 2023-008 (CKD)  
OFFICE USE ONLY

1. Name of Applicant: artis l cooper  
MAILING Address: 314 cedarcreek dr City Duncanville State TX Zip 75137  
Daytime Phone: 2145058993 Alternate Phone: \_\_\_\_\_  
Relationship of Applicant to Owner: brother  
ADDRESS OF PROPERTY TO BE DEMOLISHED: 1012 Bette rton cl r Zip 75203  
Historic District: \_\_\_\_\_

Proposed Work:

2. Indicate which demolition standard you are applying (choose one option ONLY):
- Replace with more appropriate/compatible structure
  - No economically viable use
  - Imminent threat to public health / safety
  - Demolition noncontributing structure because newer than period of significance
  - Intent to apply for certificate of demolition pursuant to 51-A-4.501(i) of the Dallas City Code;
- Certificate of Demolition for residential structures with no more than 3,000 square feet of floor area pursuant to a court order
3. Describe work and submit required documents for the demolition standard you are applying (see checklist):  
cost prohibitive to restore

Application Deadline:

This form must be completed before the Dallas Landmark Commission can consider the approval of any demolition or removal of a structure within a Historic District. This form along with any supporting documentation must be filed by the first Thursday of each month by 12:00 Noon so it may be reviewed by the Landmark Commission on the first Monday of the following month, 1500 Marilla 5BN, Dallas, Texas, 75201 (See official calendar for exceptions to deadline and meeting dates)

Use Section 51A-3.103 OF THE Dallas City Code and the enclosed checklist as a guide to completing the application. Incomplete applications cannot be reviewed and will be returned to you for more information. You are encouraged to contact a Preservation Planner at 214/670-4209 to make sure your application is complete.

Other: In the event of a denial, you have the right to an appeal. You are encouraged to attend the Landmark Commission hearing the first Monday of each month. Information regarding the mission or committees for individual addresses is also available for review

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Office of Historic Preservation (C)

4. Signature of Applicant: [Signature] Date: 2-22-2023  
5. Signature of Owner: [Signature] Date: 2-22-2023

(IF NOT APPLICANT)

Review the enclosed Review and Action Form  
Memorandum to the Building Official, a Certificate for Demolition and Removal has been:

- APPROVED. Please release the building permit
- APPROVED WITH CONDITIONS. Please release the building permit in accordance with any conditions.
- DENIED. Please do not release the building permit or allow work.
- DENIED WITHOUT PREJUDICE.. Please do not release the building permit or allow work

Rhonda Linn Ph.D. 5/15/2023  
Office of Historic Preservation Date

NOTE: THIS APPLICATION WILL EXPIRE 180 DAYS AFTER THE APPROVAL DATE

# SECTION 2

## Landmark Commission Agenda

May 1, 2023

See Page 16 Item #9

Landmark Commission Agenda  
Monday, May 1, 2023

1. That the request for a Certificate of Appropriateness to replace and extend existing wood and iron fence be denied without prejudice.
2. That the request for a Certificate of Appropriateness to replace iron gate be denied without prejudice.
3. That the request for a Certificate of Appropriateness to regrade and reseed lawn be denied without prejudice.

**9. 1012 BETTERTON CIR**

Tenth Street Neighborhood Historic District  
CD223-008(RD)  
Rhonda Dunn

**Request:**

A Certificate of Demolition to demolish main residential building. Standard: imminent threat to public health and safety.

**Applicant:** Cooper, Artis L

**Application Filed:** 4/6/23

**Staff Recommendation:**

That the request for a Certificate of Demolition to demolish main residential building be approved in accordance with specifications dated 5/1/23. The proposed work is consistent with the standards in City Code Section 51A-4.501(h)(4)(C).

**Task Force Recommendation:**

That the request for a Certificate of Demolition to demolish main residential building be approved with the following conditions: to come up with a salvage plan for the items that are salvageable; and to replace the current structure with a structure that is of the original size, and massing as the original structure.

**10. 338 S FLEMING AVE**

Tenth Street Neighborhood Historic District  
CD223-007(RD)  
Rhonda Dunn

**Request:**

A Certificate of Demolition to demolish main (commercial) building. Standard: imminent threat to public health and safety.

**Applicant:** Shear, Randy

**Application Filed:** 4/6/23

**Staff Recommendation:**

That the request for a Certificate of Demolition to demolish main (commercial) building be approved in accordance with drawings and specifications dated 5/1/23. The proposed work is consistent with the standards in City Code Section 51A-4.501(h)(4)(C).

**Task Force Recommendation:**

That the request for a Certificate of Demolition to demolish main (commercial) building be approved with the following conditions: that the applicant come up with a salvage plan for the materials that can be reused and that the plans that the applicant has brought before task force (for replacement) be followed as written.



# SECTION 3

CD223-008(RD)  
Docket Material



CITY OF DALLAS

**LANDMARK COMMISSION**

**MAY 1, 2023**

FILE NUMBER: CD223-008(RD)  
LOCATION: 1012 Betterton Cir.  
STRUCTURE: Contributing  
COUNCIL DISTRICT: 4  
ZONING: PD-388

PLANNER: Rhonda Dunn, Ph.D.  
DATE FILED: April 6, 2023  
DISTRICT: Tenth Street Neighborhood  
MAPSCO: 55-A  
CENSUS TRACT: 0041.00

**APPLICANT:** Cooper, Artis L.

**REPRESENTATIVE:** N/A

**OWNER:** Cooper, Artis L.

**REQUEST**

**A Certificate of Demolition (CD) is requested to:**

- Demolish main residential building. Standard: imminent threat to public health and safety.

**BACKGROUND / HISTORY:**

The subject property is a one-story, wood-framed cottage; identified as contributing to the Tenth Street Neighborhood Historic District.

Previous applications for Certificates of Appropriateness (and/or Demolition) filed for this property that are pertinent to this CD include:

Case Number	Review Type	Date	Owner	Decision
CD145-022(MD)	Standard	6/1/2015	Cooper, Artis L.	Approve
<ul style="list-style-type: none"> <li>• Demolish a residential structure 3,000 square feet or less pursuant to a court order (51A-4.501(i) of the Dallas City Code).</li> </ul>				

CA190-387(MP) <sup>1</sup>	Routine	4/20/2020	Cooper, Artis L.	
<ol style="list-style-type: none"> <li>1. Repair glass on six wood, six-over-six double hung windows.</li> <li>2. Repair foundation.</li> <li>3. Replace roof shingles. Type and color: 30-year single tab "Desert Tan."</li> <li>4. Repair and replace wood siding as needed.</li> <li>5. Remove non-historic chimney, including brick base, and infill with wood siding.</li> <li>6. Repair and replace wood front porch.</li> <li>7. Paint main structure. Brand Sherwin Williams: Body - SW 6329 "Faint Coral" or similar color; Trim - SW 9006 "Rojo Dust" or similar color.</li> </ol>				<p>Approve with conditions</p> <p>Approve with conditions</p> <p>Approve</p> <p>Approve with conditions</p> <p>Approve with conditions</p> <p>Approve with conditions</p> <p>Approve with conditions</p>

**RELEVANT DALLAS CITY CODE:**

**Section 51A-4.501(h)(4)(C)**

The landmark commission must deny an application to demolish or remove a structure that poses an imminent threat to public health or safety unless it finds that:

- (i) the structure constitutes a documented major and imminent threat to public health and safety;
- (ii) the demolition or removal is required to alleviate the threat to public health and safety; and
- (iii) there is no reasonable way, other than demolition or removal, to eliminate the threat in a timely manner.

**PROJECT DESCRIPTION AND ANALYSIS:**

The applicant is requesting to demolish a one-story, wood-framed residential building based on the premise, "the structure poses an imminent threat to public health or safety." From a past routine Certificate of Appropriateness (referenced above) and a recent proposed work write-up from the Department of Housing and Neighborhood Revitalization (DHNR), it appears that the property owner desired to repair and rehabilitate the building. Staff does not have knowledge regarding why the proposed work listed in the routine CA was not completed (or commenced). However, with respect to the DHNR's assessment the estimated cost of repairs totaled \$225,321.48, of this amount the rehabilitation grant program would cover a maximum of \$100,000. The remaining amount would be the property owner's responsibility.

<sup>1</sup> From visual inspection of the subject property, it appears this work has not been completed.

Additionally, it appears that a prior Certificate of Demolition for the subject property was approved by the landmark commission on June 1<sup>st</sup>, 2015. The request was made by the City Attorney's Office in response to a court issued order. The landmark commission's motion for this decision is below:

**1012 BETTERTON CIR**

Tenth Street Neighborhood Historic District  
CD145-022(MD)  
Mark Doty

Demolish a residential structure 3,000 square feet or less pursuant to a court order (51A-4.501(i) of the Dallas City Code).

Speakers: For: No one  
Against: No one

**Motion:**

Demolish a residential structure 3,000 square feet or less pursuant to a court order (51A-4.501(i) of the Dallas City Code). Enter into initial suspension period.

Maker: \*Birch  
Second: Gadberry  
Results: 11/0

Ayes:	- 11	Amonett, *Birch, Birrer, *Childers, Gadberry, Jordan, Maten, Tapscott, * Flabiano, Sherman, Williams
Against:	- 0	
Absent:	- 6	Bowers, Fahrenbruch, Greenberg, Johnson, Seale, Thomas-Drake
Vacancies:	- 1	Dist 12

Given the subject property's past history and its continued state of disrepair, staff recommends approval of the applicant's request to demolish main residential building.

**STAFF RECOMMENDATION:**

That the request for a Certificate of Demolition to demolish main residential building be approved in accordance with specifications dated 5/1/23. The proposed work is consistent with the standards in City Code Section 51A-4.501(h)(4)(C).

**TASK FORCE RECOMMENDATION:**

That the request for a Certificate of Demolition to demolish main residential building be approved with the following conditions: to come up with a salvage plan for the items that are salvageable; and to replace the current structure with a structure that is of the original size, and massing as the original structure.

**SITE MAP**  
1012 Betterton Cir.



The small red balloon highlights 1012 Betterton Cir. The orange shading denotes Tenth Street Historic District coverage. *Basemap Source: Google Earth*

**CURRENT PHOTOS**  
1012 Betterton Cir.



**Subject property. Front: north elevation. To the right of the property is green space (i.e., a vacant lot). Source: Google Maps (May 2022).**

**TASK FORCE  
RECOMMENDATION(S)**

②

# TASK FORCE RECOMMENDATION REPORT

WHEATLEY PLACE / TENTH STREET

DATE: 04/11/2023  
TIME: **4:00 pm**  
MEETING PLACE: **Preservation Dallas/Videoconference**

Applicant Name: Artis Cooper  
Address: 1012 Betterton Cir (Wheatley Place/ Tenth St Neighborhood HD)  
Date of CA/CD/CR Request: 04/06/2023

**RECOMMENDATION:**

Approve  Approve with conditions  Deny  Deny without prejudice

Recommendation / comments/ basis: *1. Salvage Plan*  
*2. Replace the structure with the original site maping - with all original details.*

Task force members present

Brenda Gonzalez  VACANT  
 Larry Johnson  Barbara Wheeler (Chair)   
 VACANT

Ex Officio staff members Present:  Dr. Rhonda Dunn

Simple Majority Quorum:  yes  no (two makes a quorum)

Maker: *Johnson*  
2<sup>nd</sup>: *Gonzalez*  
Task Force members in favor: *3*  
Task Force members opposed: *0*  
Basis for opposition:

CHAIR, Task Force *Barbara Wheeler* DATE: 04/11/2023



December 22, 2019

Mr. Artis Cooper  
934 Oak Park Trail  
Dallas, TX

Re: Foundation Review  
1012 Betterton Circle  
Dallas, TX

Dear Mr. Cooper

In accordance to your request, the residence at the above address was inspected on December 19, 2019.

The structure is in extremely poor condition. It is structurally unstable and unsafe to even enter. The foundation, floors, walls, and roof are all damaged, and in some places missing. The electrical and plumbing systems have been vandalized. It is recommended that this structure should be demolished. It does not appear to be repairable or liveable.

If you have any further questions, please feel free to call.

Sincerely,

  
Robert C. Paddock, M. Eng., P.E.

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Office of Historic Preservation (OH



## Design & Development Consultants

737 S. R. L. Thornton Fwy  
Dallas, Texas 75203  
Ph (469) 628 2642  
Marion Johnson - m.johnson@ddcteams.com  
Josephine Rushton - j.rushton@ddcteams.com

To: Mr. Artis Cooper  
1012 Betterton Circle  
Dallas, TX 75203  
Tenth Street Historical District

Re: Architectural assessment for the above-mentioned property

March 18, 2023

Mr. Artis Cooper

During our site visit on February 22, 2023, we have found that the residence, in its current condition, is inefficient in terms of structural stability. As your consultant, we advise that the residence be demolished for new construction to prevent the structure from collapsing and causing harm to any persons providing construction services on the property. Below you will see our findings:

### FOUNDATION:

- The existing structure is currently supported by tree stumps at the foundation, which are now leaning.
- The foundation's stringers are located in large spans, causing structural inadequacy.

### ROOF:

- The roof joists are not properly rested on the beams, causing the roof joists to rotate between the structural members, causing the roof joists to rotate.
- The roof is leaning due to buckling of the walls and foundation.

### WALLS:

- The exterior walls on the east elevation are in inadequate foundation support.
- A fire has occurred in the east side of the residence, adding direct damage to that entire side and causing indirect smoke damage throughout the residence.
- The joints in the walls are randomly spaced.
- The walls are leaning inward on the east side of the residence.

### FLOOR:

- Unevenness of the floor is caused by inadequate foundation support.
- The floor joists and beams are not properly sized.

### FRONT PORCH:

- The steps will need to be completely replaced due to deterioration of the concrete.

### RETAINING WALL:

- The retaining wall located at front of residence will need to be repaired or replaced due to the deterioration of its structural integrity.

In addition, the structure's status is considered noncontributing since 1974 to the Tenth Street Historical District architectural significance. Before any construction, a Certificate of Appropriateness should be obtained according to the procedures outlined in Chapter 51A-4.501 of the Dallas City Code. The new design and construction must comply with the historic preservation requirements outlined in the Tenth Street Ordinance (2255).

If you have any questions regarding this matter, please feel free to contact us at the phone number and email located at the header of this letter.

Thank you,  
Marion Johnson

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Office of Historic Preservation (OHP)

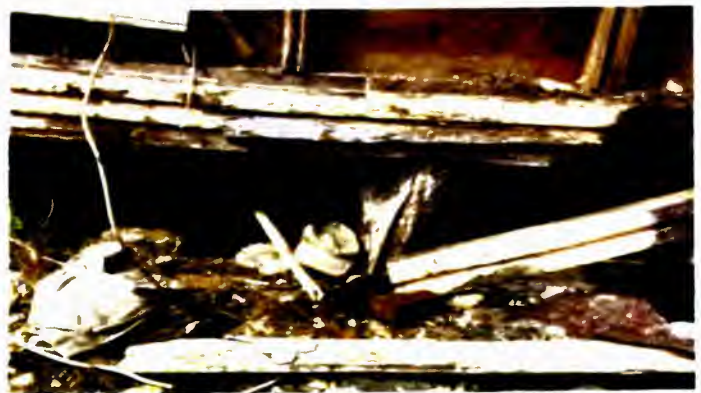


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Ph (469) 628 2642  
Marion Johnson - m.johnson@ddcteams.com  
Joseph N. Rushton - j.rushton@ddcteams.com



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Dallas, Texas 75203  
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Marion Johnson - m.johnson@ddcteams.com  
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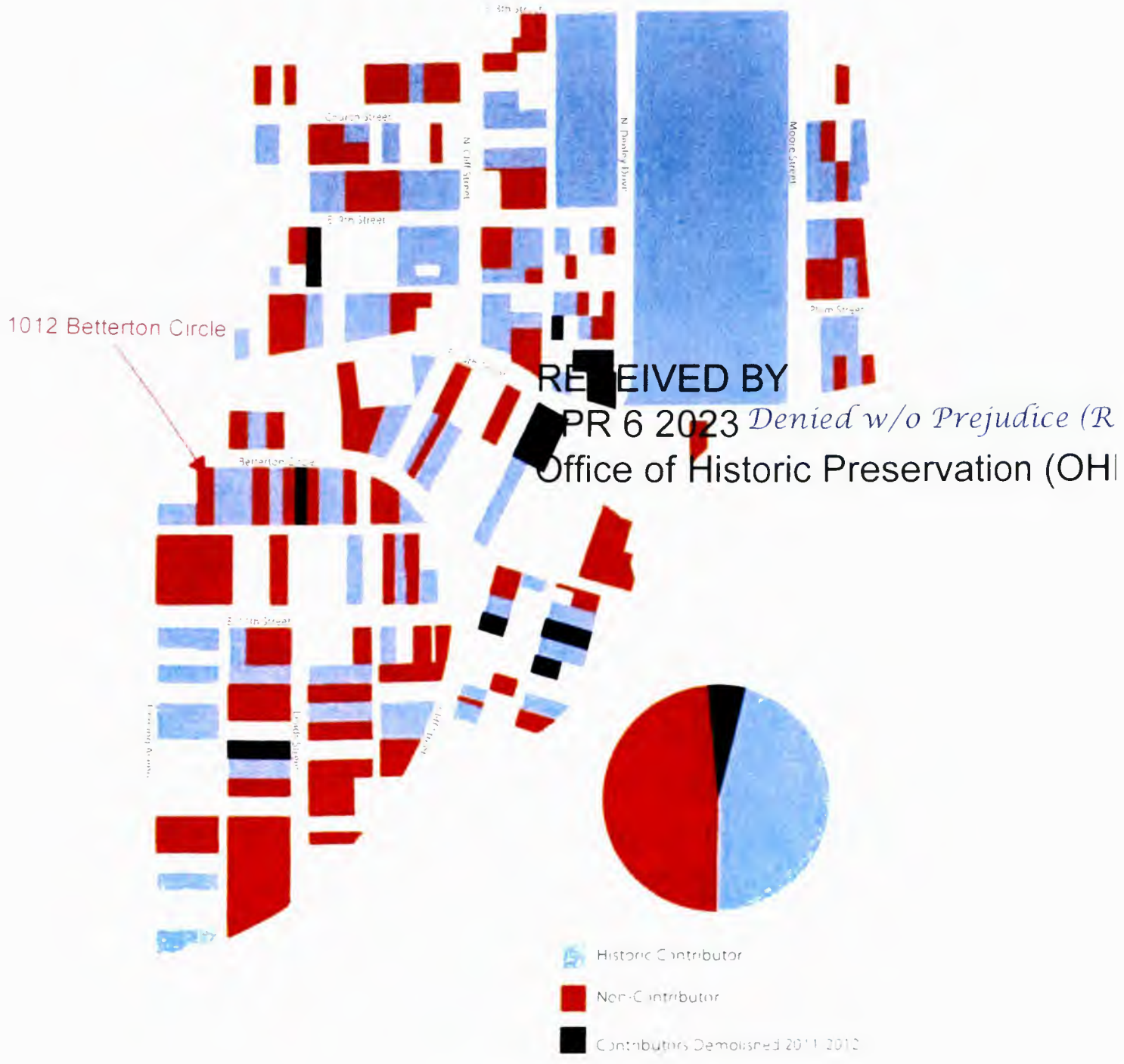
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Office of Historic Preservation (OHP)

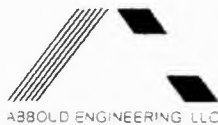


# Design & Development Consultants

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Ph (469) 628 2642  
Marion Johnson - m.johnson@ddcteams.com  
Josephine Rushton - j.rushton@ddcteams.com

## 10th STREET HISTORIC DISTRICT





Project ID HOU-2021-00017077

Project Name Visual Foundation Evaluation Report

Report Date February 13 2023

Inspection Date January 19 2023

Case # 15606

RE Residence located at 1012 Betterton Cir Dallas, TX 75203

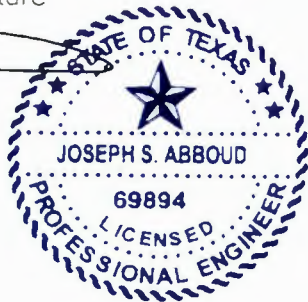
Dear Jasmine Bazley

Enclosed is the report of the visual inspection that was conducted on the structural foundation of Artis Cooper residence located at 1012 Betterton Cir, Dallas, TX 75203 by Joseph Abboud, PE. This inspection was performed on January 19, 2023.

A foundation inspection consists of observing the exterior of the house for signs of structural distortion that might be related to foundation movement. An engineering evaluation of the performance of a foundation consists of taking the data from the inspection and using it, in conjunction with the engineer's knowledge of structural mechanics, the structural behavior of houses (including the structural behavior of walls and door frames) and the engineering properties of building materials to make engineering judgments about the performance of the foundation.

The information you need should be contained in the attached report. Information specific to this house starts in Section 1, General Information. A summary of the items of concern may be found in Section 2, Assessment. If you should have any questions, however, please give us a call. It was a pleasure to have done business with you, and we hope we may be of additional service to you some time in the future.

Regards  
Joseph Abboud, PE



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APR 6 2023

Denise W. O'Prey  
Office of Historic Preservation (OHP)

## 1 General Information

- 1.1 Address 1012 Betterton Cir. Dallas, TX 75203
- 1.2 Year Built 1925
- 1.3 Estimated age of house ~98 years
- 1.4 Type of structure 1-story single family bungalow
- 1.5 Type of foundation Originally wood but modified with tree trunks
- 1.6 Living area ~1,363 sq. ft.
- 1.7 Lot area ~7,500 sq. ft. (50 ft. x 150 ft.)
- 1.8 Location of structure The house is located on Lot 2, Block 102/3085 W1/2, originally in the Town of Oak Cliff. The house is facing North.

## 2 Assessment

This is a Level A evaluation as outlined in the Texas Section of the American Society of Civil Engineers' Recommendations for Evaluation of Residential Structures.

The house is boarded up with no sign of anyone residing in it (see pic 6686). The overall shape and condition of the house is bad and signs of deterioration to the foundation and fascia system are evident.

The front porch concrete steps have failed and are hazardous (see pics 6691, 6692, and 6694). Further, the porch wood flooring is unstable and has broken in several areas.

The house support system requires immediate attention, as several tree trunks have been used to fix the foundation (see pics 6689, 6690, 6695, 6696, and 6700). Also, the house is leaning, which is indicative of loss of leveling.

The driveway is totally damaged past Right-of-Way (ROW) (see pics 6688, 6698, and 6699). The backyard is overgrown with reeds and is inaccessible.

The house siding is badly dated and damaged and missing a lot of backer supports that decrease the integrity of the entire structure (see pics 6702, 6703, 6704, and 6707). This damage has extended to the porch fascia as well (see pic 6687).

Finally, due to lack of maintenance and possible lack of proper drainage, the retaining wall north of the house is uneven and crumbling (see pic 6687).

## 3 Recommendation

The following are lists of recommendations in order of events:

1. A licensed professional should inspect the integrity of the entire structure and porch's floor joist, support beams, and foundation.
2. Replace any detreated wood members with treated lumber; detreated pier columns shall be replaced with CMU (Cinder) blocks.
3. Laser level the entire house.
4. Replace missing siding and repair existing fascia.
5. Repair hazardous front porch including steps and concrete retaining wall.

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- 6 Complete proper regrading of the areas around the house to allow for rainwater to flow away from the house and towards the street

#### 4 Limitation of Liability

The foregoing discussion is based upon an analysis of information which was obtained through a visual inspection of the foundation and its associated structure combined with such engineering information that was otherwise available. Although this process yields reliable results most of the time, it must be recognized that occasionally latent defects may exist which are not always amenable through detection during a visual inspection of this type. Thus, any inspection of this type is essentially an opinion upon which the client may place a reasonable degree of reliance, but under no conditions can such an opinion be considered absolute, nor can such opinion be used without any assumption of risk.

#### 5 Certification

I hereby certify that I did conduct the assessment of the foundation performance of the residence located at the address above on the date listed. I am a Licensed Professional Engineer in the State of Texas, whose registration number is 69894. I further certify that the findings and conclusions contained in this report have been, to the best of my knowledge, correctly and completely stated without bias and are based upon my observations and my experience. No responsibility is assumed for events that occur after the submission of this report and no warranty, either expressed or implied, is hereby made.

- 6 Attachments
  - 6.1 Aerial Map
  - 6.2 Pictures

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Office of Historic Preservation (OH



6687



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Office of Historic Preservation (OH



6689



6690

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Office of Historic Preservation (OH



6691



BY  
2023 *Denied w/o Prejudice* (R  
of Historic Preservation (OHI



6692

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Office of Historic Preservation (OHI



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Office of Historic Preservation (OHP



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Preservation (OH



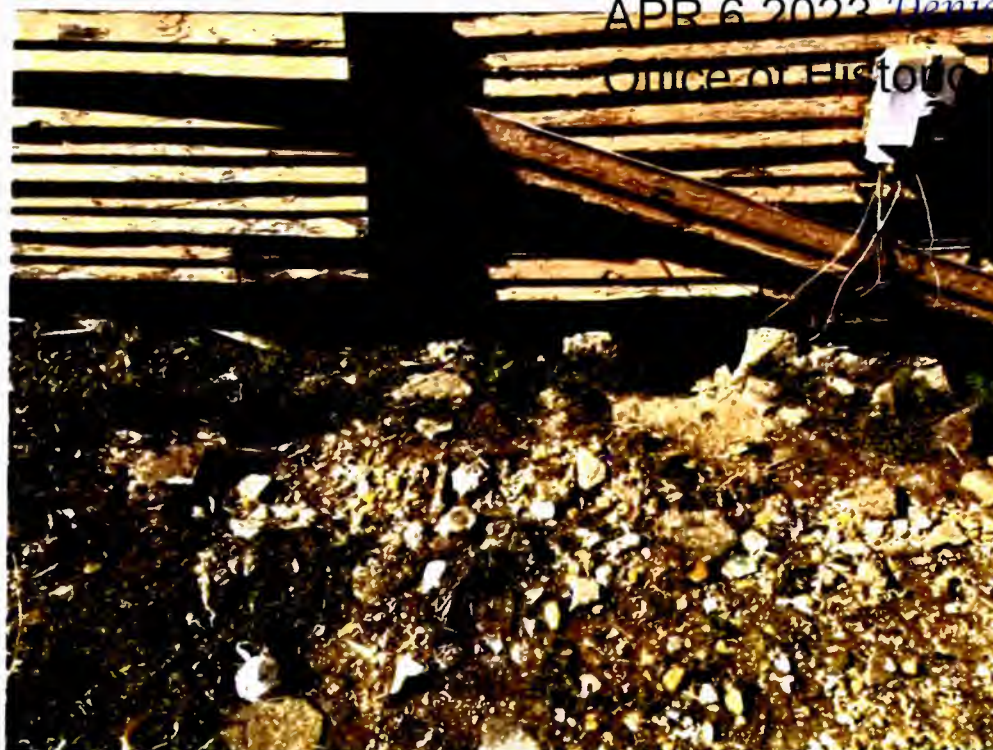
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6702

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*Office of Historic Preservation (OH*



6703



6704

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APR 6 2000 *Donated w/o Prejudice (R*

OH): *Preservation (OH*



6707

# Work Write-Up

1012 Betterton Circle

\* EXHIBIT 1 \*

Dated: 12/7/2022

---

## CUSTOMER INFORMATION

Cooper Artis

1012 Betterton Cir Dallas TX 75203

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## PREPARED BY

jasmine.bazley@dallascityhall.com

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\* NOTE \*

THE CUSTOMER AND CONTRACTOR MUST SIGN THE BOTTOM OF EACH PAGE ONLY IF

- 1) THIS WORK WRITE-UP BECOMES PART OF A CONSTRUCTION CONTRACT
- 2) THE UNDERSIGNED CUSTOMER AND CONTRACTOR HAVE REVIEWED, APPROVED AND AGREED TO THE WORK AND PRICES DESCRIBED IN THE WORK WRITE-UP

RECEIVED BY

APR 6 2023

Denia *Denia* /o Prejudice (R

Office of Historic Preservation (OH

Customer: \_\_\_\_\_

Contractor: \_\_\_\_\_



**Location: Unassigned**

1 LBP	Quantity	Cost/Units	Total
1 - LEAD-BASE PAINT INSPECTION & LEAD HAZARD RISK ASSESSMENT REPORT: 24 CFR 15.1320 (10/00050)	1	\$900.00	\$900.00

GC shall adhere to 24 CFR Part 35 Sec. 35.930 (a) & (b) and (C) is required. GC shall hire a third party lead-based paint inspector risk assessor to perform lead-based paint testing and lead hazard screening using the scope of work provided by HIPP. The lead inspector risk assessor shall provide 3 copies of the risk assessment to the homeowner, the contractor and the HIPP inspector. The contractor shall address any lead issues with the housing inspector found in the executive summary and follow 24 CFR.35.125 (Notice of evaluation and hazard reduction activities) when applicable. [0018-000]

2 - CLEARANCE: 24 CFR 35.1340 (10/00150)	1	\$600.00	\$600.00
--	---	----------	----------

GC shall hire a third party lead-based paint inspector risk assessor to perform a clearance examination as stated in CFR 24 35.1340 at the end of the lead remediation. []

*Subtotal for 1 LBP*      **\$1,500.00**

**ADA**

ADA	Quantity	Cost/Units	Total
3 - WATER CLOSET, HANDICAP, COMPLETE (20/00035) Install/Replace. [17-170]	2	\$563.20/EA	\$1,126.40

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**Attic**

Attic	Quantity	Cost/Units	Total
4 - LEAD REMOVAL PULL-DOWN STAIR/DOOR: 1" x 6" stiles & rails or Rated a minimum of 300 lbs. (5/00110)	1	\$378.27/EA	\$378.27

Install or Replace: Opening shall be framed with 2" x 6" lumber. Ladder to be trimmed and painted [08-330]

5 - INSTAL AFTER LBP REMOVAL Install or Replace: Opening shall be framed with 2" x 6" lumber. Ladder to be trimmed and painted [08-330] (5/00120)	1	\$882.62/EA	\$882.62
--	---	-------------	----------

Install or Replace: Opening shall be framed with 2" x 6" lumber. Ladder to be trimmed and painted [08-330]

*Subtotal for Attic*      **\$1,260.89**

Customer \_\_\_\_\_ Contractor \_\_\_\_\_



Bathtubs	Quantity	Cost/Units	Total
6 - BATHTUB FAUCETS AND SHOWER, COMPLETE UNIT (35 00100)	2	\$475.97/EA	\$951.94
Replace - Install faucets and shower, to include handicap like hand held sprayer. [15-454]			
7 - LEAD REMOVAL BATH TUB, COMPLETE UNIT (35 00160)	2	\$287.51/EA	\$575.02
Install Replace 5' steel tub. [15-455A]			
8 - AFTER LBP REMOVAL BATH TUB, COMPLETE UNIT (35 00170)	2	\$670.86/EA	\$1,341.72
Install Replace 5' steel tub. [15-455 A]			
9 - LEAD REMOVAL CERAMIC TUB SURROUND, COMPLETE UNIT (35 00210)	2	\$320.32/EA	\$640.64
Install Replace at tub area. Install using "Durock" or equal wallboard backer. [09-320]			
10 - INSTALL AFTER LBP CERAMIC TUB SURROUND, COMPLETE UNIT (35 00220)	2	\$747.41/EA	\$1,494.82

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Cabinets	Quantity	Cost/Units	Total
11 - WALL CABINETS, COMPLETE: Install/Replace. (45 00050)	10	\$149.64/LF	\$1,496.40
[06-410A]			
12 - BASE CABINETS, COMPLETE: Install/Remove/Replace. (45 00100)	10	\$159.65/LF	\$1,596.50
[06-410B]			
13 - VANITY, REPLACE/INSTALL COMPLETE UNIT (45 00050)	2	\$620.00/EA	\$1,240.00

Work includes top, bowl & faucet, supply & waste lines - complete. [06-410C]

Customer: \_\_\_\_\_ Contractor: \_\_\_\_\_



Subtotal for Cabinets \$4,332.90

**Countertops**

Quantity	Cost/Units	Total
10	\$27.12/SF	\$271.20

14 - COUNTERTOP, COMPLETE: - 4" splash (55 00050)

Replace with preformed counter - 4" splash [06-240B]

**Debris**

Quantity	Cost/Units	Total
40	\$69.44/Ea	\$2,777.60

15 - DEBRIS, REMOVE, COMPLETE: from home (60 00060)

[02-106] GC to remove all trash from interior exterior

**Doors**

Quantity	Cost/Units	Total
2	\$227.49/EA	\$454.98

16 - LEAD REMOVAL DOOR-PRE-HUNG METAL DOOR:

Remove, replace/install exterior door unit complete. (70 00070)

Install Replace complete pre-hung metal unit. Door to be properly shimmed with a keyed lock, dead bolt, viewer and casing. [08-110] rear entry door

17 - AFTER LBP REMOVAL DOOR-PRE-HUNG METAL DOOR: Remove, replace/install exterior door unit complete. (70 00070)

Install Replace complete pre-hung metal unit. Door to be properly shimmed with a keyed lock, dead bolt, viewer and casing. [08-110] install at rear entry

18 - AFTER LBP REMOVAL DOOR-PRE-HUNG WOOD (2130 TRADITIONAL) DOOR: Remove, replace/install exterior door unit complete. (70 00070)

Remove, replace install exterior door unit complete, includes shims, casings, trim boards, viewer, hardware and locksets and painting or varnishing of door on all six sides, if required. Contractor to include rough framing of door as part of new door installation (verify size of door in field prior to start of work) [08-210]

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Customer: \_\_\_\_\_

Contractor: \_\_\_\_\_



**19 - DOOR-PRE-HUNG DOOR UNIT, INTERIOR, COMPLETE** (70 00350) 5 \$289.15 \$289.15

Install replace complete unit. includes passage or lock set [08-210B] replace doors in 2 bedrooms and one bathroom

*Subtotal for Doors* \$2,026.64

**Drywall**

Quantity	Cost/Units	Total
1,830	\$8.50/SF	\$15,555.00

**20 - DRYWALL, REPAIR, SHEETROCK COMPLETE** (75 00000)

Includes tape and bed and texture.[09-290 A] GC to install dry wall in missing areas and repair replace damaged dry wall and cracks throughout the home

**DWV**

Quantity	Cost/Units	Total
10	\$357.48/EA	\$3,574.80

**21 - DWV, COMPLETE SYSTEM** (80 00000)

15-303: Installation to include removal of entire existing DWV system; to include p-traps to bottom of sink drain. To include proper strapping to floor joist. Cleanouts and the vent stacks must protrude to the exterior of the dwelling with proper new flashing. If contractor cannot remove a vent the Housing Inspector must approve the use of a mechanical vent prior to installation otherwise contractor may be subject absorbing the cost of that opening. All wall, ceiling and roof penetrations must be properly flashed. E.P.A. G.D. for venting. All materials and/or equipment demolished or repaired are considered salvage and belong to the General Contractor for use or disposal. Price is for each opening. [15-303]

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**Electrical**

Quantity	Cost/Units	Total
1,830	\$2.89/SF	\$5,288.70

**22 - LEAD REMOVAL ELECTRICAL-RE-WIRE ENTIRE STRUCTURE, COMPLETE** (85 00000)

Install separate circuits for all appliances. Scope of work includes all new wire, boxes, covers & GFI outlets and door bell. Remove all old wiring. Must meet new IRC code requirements - green tag. To include finish out or patch work as per 16-023 [16-600 A]required.

Customer \_\_\_\_\_

Contractor \_\_\_\_\_



**23 - AFTER LBP REMOVAL ELECTRICAL-RE-WIRE ENTIRE STRUCTURE, COMPLETE** (85 00120) 1.830 \$6.91/SF \$12,645.30

Install separate circuits for all appliances. Scope of work includes all new wire, boxes, covers & GFI outlets and door bell. Remove all old wiring. Must meet new IRC code requirements - green tag. To include finish out of patch work as per 16-023 [16-600A]required.

**24 - ELECTRICAL-SERVICE PANEL - 200 AMP** (85 00900) 1 \$2,410.96/E A \$2,410.96

16-600J: COMPLETE with green tag. (Install Replace). Installation is to include 200 amp service panel, meter box, service mast, mast head, etc. and sealing of all holes and penetrations such as flashing and sealant. Installation will include re-connection fee. Permit must reflex the actual work being performed such as electrical panel (service upgrade, etc.). These can be indicated under the notes section on the online application. All materials and or equipment demolished or repaired are considered salvage and belong to the homeowner for use or disposal unless the homeowner relinquishes salvage rights to the contractor (Contractors Bid Accordingly). The contractor must remove all unwanted material and debris. [16-600J]

**25 - ELECTRICAL-EXHAUST FAN: Install. (vent to Exterior).** (85 02250) 2 \$271.14/EA \$542.28

[16-600X]

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**Flatwork**

**26 - CONCRETE STEPS, CAST-IN-PLACE, COMPLETE UNIT** (15 00750) 7 \$108.94/Ea \$762.58

Install - poured in place. [03-112 A]Price per Riser

**Flooring**

**27 - SUB FLOOR, COMPLETE: Install/Replace.** (20 00730) 96 \$30.00/SF \$2,880.00

[09-556] living room, bathroom areas

Customer: \_\_\_\_\_

Contractor: \_\_\_\_\_





28 - FLOOR, Waterproof VINYL planks , 1.830 \$9.65/SF \$17,659.50  
 COMPLETE (120 00150)

Replace /Install sheet vinyl entire room (to Incl. closet if required) with 3/8" B-C ply. underlay ("B" side up).  
 [09-665]

Subtotal for Flooring \$20,539.50

Foundation	Quantity	Cost/Units	Total
29 - FOUNDATION, COMPLETE, PIER & BEAM (125 00000)	1.218	\$14.06/SF	\$17,125.08

Replace /Install new, complete, use treated wood for sills, piers, & beams. Green tag required. [02-215]

30 - Foundation and Framing- Engineers letter of Approval (125 00200)	1	\$1,200.00	\$1,200.00
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GC to get engineers letter of approval for rear addition slab and framing prior to any work started.

31 - * TRP * METAL SKIRTING, REPLACE, COMPLETE: (125 00350)	1.186	\$4.00/SF	\$4,744.00
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Install /Replace with frame. [07-430]

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Subtotal for Foundation \$23,069.08

Framing	Quantity	Cost/Units	Total
32 - FRAME WALL, REBUILD, COMPLETE (130 00050)	90	\$36.38/LF	\$3,274.20

Rebuild. Does not include exterior sheathing [06-110 A] GC to rebuild walls at rear addition to code. GC to rebuild wall at rear wall connected to new addition.

Gas	Quantity	Cost/Units	Total
33 - GAS RE-PIPE, COMPLETE SYSTEM (140 00150)	3	\$499.00/EA	\$1,497.00

15-442E - Installation to include approved gas stops and flex lines to appliance [15-442E]

General	Quantity	Cost/Units	Total
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Customer: \_\_\_\_\_

Contractor: \_\_\_\_\_





**40 - INSULATION: BLOW TO R-30, COMPLETE.** (160 00100) 1,830 \$1.85/SF \$3,385.50

BLOW TO R-30, COMPLETE: Note: Contractor is to supply certificate and verify that the ceiling will hold the extra weight. [07-211]

*Subtotal for Insulation* **\$6,089.50**

<b>Paint</b>	<b>Quantity</b>	<b>Cost/Units</b>	<b>Total</b>
<b>41 - LEAD REMOVAL PREP &amp; PAINT ALL INTERIOR SURFACES, COMPLETE</b> (175 00060)	1,830	\$1.15/SF	\$2,104.50

Use enamel for the kitchen, bathrooms, & utility room. Paint the interior of all cabinets and closets. Caulk all cracks. Price based on footprint square footage. [09-900]

<b>42 - AFTER LBP REMOVAL PREP &amp; PAINT ALL INTERIOR SURFACES, COMPLETE</b> (175 00070)	1,830	\$2.68/SF	\$4,904.40
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Use enamel for the kitchen, bathrooms, & utility room. Paint the interior of all cabinets and closets. Caulk all cracks. Price based on footprint square footage. [09-900]

<b>43 - LEAD REMOVAL ENTIRE EXTERIOR PAINT, COMPLETE (WOOD &amp; METAL)</b> (175 00110)	1,690	\$1.28/SF	\$2,163.20
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Prep and paint. Price based on surface area square footage. [09-961A]

<b>44 - AFTER LBP REMOVAL ENTIRE EXTERIOR PAINT, COMPLETE (WOOD &amp; METAL)</b> (175 00120)	1,690	\$2.98/SF	\$5,036.20
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Prep and paint. Price based on surface area square footage. [09-961A]

*Subtotal for Paint* **\$14,208.30**

<b>Porch</b>	<b>Quantity</b>	<b>Cost/Units</b>	<b>Total</b>
<b>45 - AFTER LBP REMOVAL DECK/PORCH, TREATED WOOD UNIT, COMPLETE</b> (120 00000)	154	\$18.23/SF	\$2,807.42

Install Replace complete to include deck blocks and hand rails. [06-160C]

Customer \_\_\_\_\_

Contractor: \_\_\_\_\_



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46 - LEAD REMOVAL DECK/PORCH, TREATED WOOD UNIT, COMPLETE (190 99999) 154 \$7.81/SF \$1,202.74

Install Replace complete to include deck blocks and hand rails. [06-160C]

Subtotal for Porch \$4,010.16

**Roof** **Quantity** **Cost/Units** **Total**  
 47 - ROOF, REPLACE FROM TOP PLATE, UP, COMPLETE (195 99900) 1,830 \$12.37/SF \$22,637.10

Replace Install from top plate up [06-113]

**Sewer** **Quantity** **Cost/Units** **Total**  
 48 - SEWER SERVICE, COMPLETE (185 00050) 36 \$41.91/LF \$1,508.76

15-306. Replace Install with 4" PVC (Includes double clean-out) in accordance to 15-306 and meet specification #02-220 (Excavating, proper compacting and back-filling holes or trenches included) [15-306]

**Siding** **Quantity** **Cost/Units** **Total**  
 49 - WOOD NOVELTY SIDING, COMPLETE (125 00200) 1,458 \$7.73/SF \$11,254.88

Replace Install [07-460C] GC to replace all damaged siding on A B C D walls

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**Sinks** **Quantity** **Cost/Units** **Total**  
 50 - DOUBLE BOWL STAINLESS STEEL SINK, COMPLETE UNIT (220 00350) 1 \$422.31/Ea \$422.31

Install Includes faucet, supply lines, and drain lines. [15-451C]

**Stairs** **Quantity** **Cost/Units** **Total**  
 51 - STAIR RAIL: Replace. (235 00180) 16 \$75.00/LF \$1,200.00

[06-440] GC to install railing to code and historical era

**Tree** **Quantity** **Cost/Units** **Total**

Customer \_\_\_\_\_ Contractor \_\_\_\_\_



52 - TREE LIMBS, REMOVE (250 00050) 200 \$13.89/LF \$2,778.00

Remove Cut back from roof & remove debris. [02-103]

Trim	Quantity	Cost/Units	Total
53 - LEAD REMOVAL BASE TRIM, COMPLETE: Install new or replace. (? Includes closet) (255 00060)	1,860	\$2.13/LF	\$3,961.80

[06-210E]

54 - AFTER LBP REMOVAL BASE TRIM, COMPLETE: Install new or replace. (? Includes closet) (255 00070)	1,860	\$4.96/LF	\$9,225.60
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[06-210E] GC to install baseboards after flooring installed

*Subtotal for Trim* \$13,187.40

Water	Quantity	Cost/Units	Total
55 - WATER SERVICE LINE, COMPLETE (270 00150)	36	\$29.84/LF	\$1,074.24

15-210: Install Replace from the meter to the house and meet specification #02-220 (Excavating, proper compacting and back-filling holes or trenches included) (270 00160)

56 - WATER RE-PIPE, COMPLETE UNIT (270 00200)	1	\$5,607.00	\$5,607.00
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15-430: Install Replace water supply re-pipe with new copper or PEX. Contractor to reference Section 15-Plumbing (15-015) and all applicable specifications under this section. Installation to include 1/4 turn angle stops were applicable and full port ball valves were applicable. New lines will run to and connect to all appliances and fixtures. Price is for each riser. [15-430]

*Subtotal for Water* \$5,607.00

Water Heater	Quantity	Cost/Units	Total
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Customer \_\_\_\_\_

Contractor \_\_\_\_\_



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57 - WATER HEATER, GAS: 40 Gallon, Complete with permit & Green tag (275.00/00)

1

\$2,260.00/E  
A

\$2,260.00

15-424: Installation of domestic water heater with a 6 yr. warranty on all parts and meet current codes and Section 15 ? Plumbing ? Water Heater. To include gas valve with flex line, water valves, "T&PR" valves with 3/4" relief line, combustion air vents, exhaust double wall vent flume to exterior with escutcheon, drain pan, and drain line to exterior. Contractor, list equipment to be installed. BRAND: \_\_\_\_\_  
[15-424A]

Window	Quantity	Cost/Units	Total
58 - LEAD REMOVAL WINDOW UNIT WOOD: Remove, replace/install with wooden window unit (Tilt-Wash Double-Hung) to match existing motif. (280.00/260)	12	\$262.77/Ea	\$3,153.24

Includes installation of any new interior exterior wood work trim, stools sills and apron to ensure window coincides with existing motif and has an aesthetic look. Contractor to include rough framing as part of new window unit or custom order window unit to fit existing rough opening (verify size of window in field prior to start of work). 08-520 [08-520]

59 - AFTER LBP REMOVAL WINDOW UNIT WOOD:

12

\$613.14/Ea

\$7,357.68

Remove, replace/install with wooden window unit (Tilt-Wash Double-Hung) to match existing motif. (280.00/260)

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Includes installation of any new interior exterior wood work trim, stools sills and apron to ensure window coincides with existing motif and has an aesthetic look. Contractor to include rough framing as part of new window unit or custom order window unit to fit existing rough opening (verify size of window in field prior to start of work). 08-520 [08-520]

Subtotal for Window \$10,510.92

**Total \$225,321.48**

Customer: \_\_\_\_\_

Contractor: \_\_\_\_\_



OWNER ACCEPTS SCOPE OF WORK

I have read the contents of this work write up and received a copy I fully understand the repairs to be made to my property.

x \_\_\_\_\_  
Owner: Date

CONTRACTOR ACCEPTS SCOPE OF WORK

I have read the contents of this work write up and agree to perform all work called for in accordance with the bid submitted on \_\_\_\_\_

x \_\_\_\_\_  
Contractor Date

x \_\_\_\_\_  
Construction Specialist Date

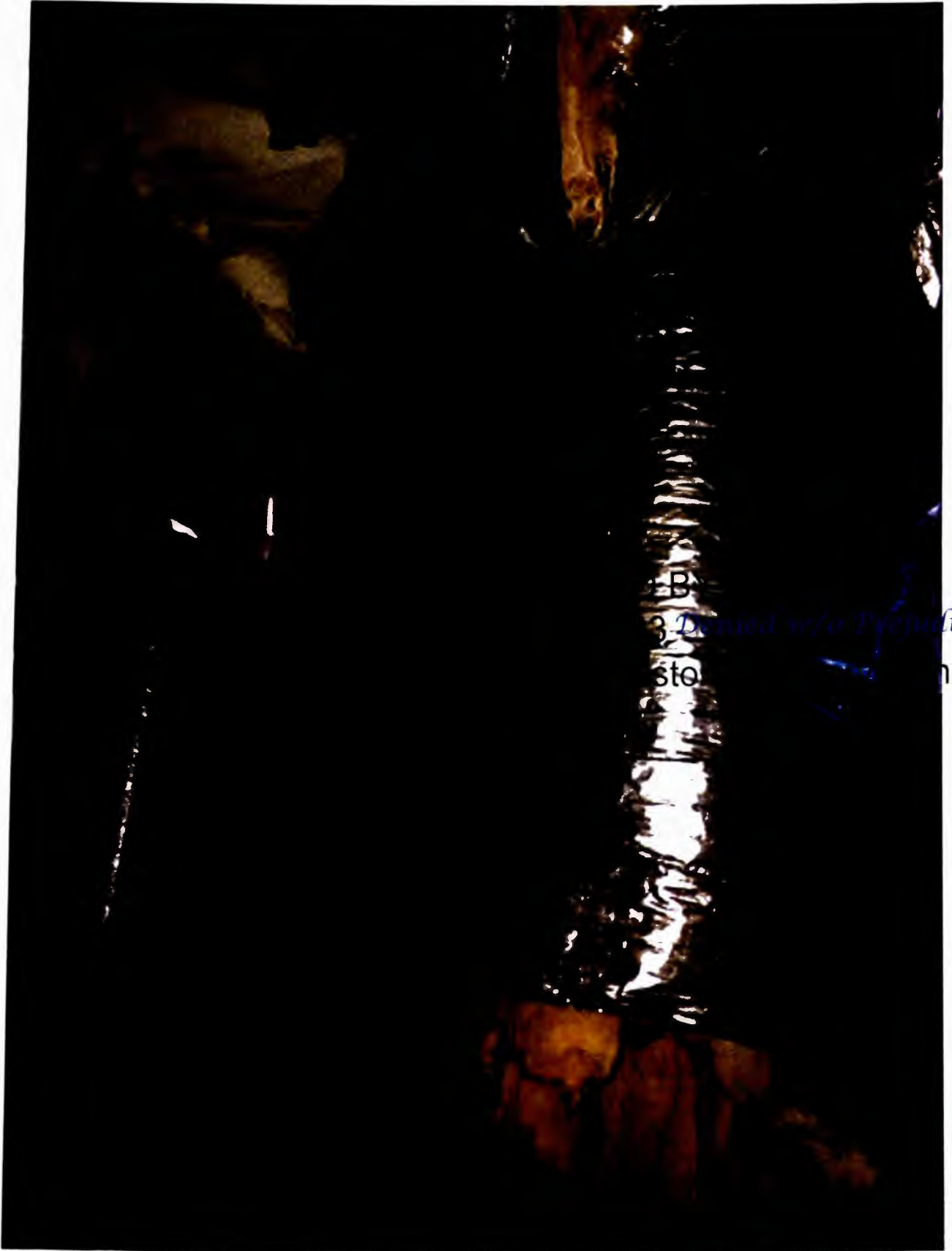
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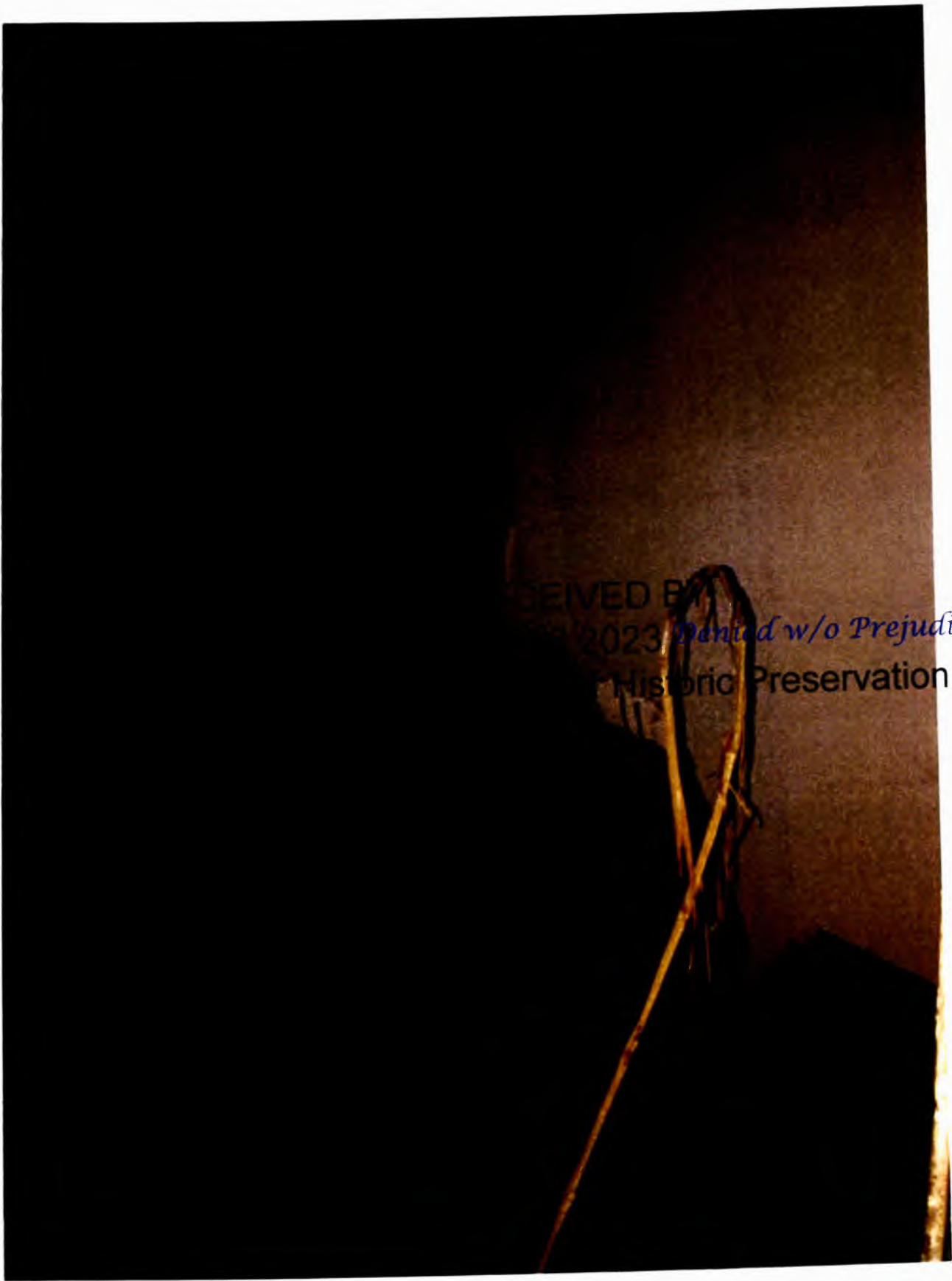
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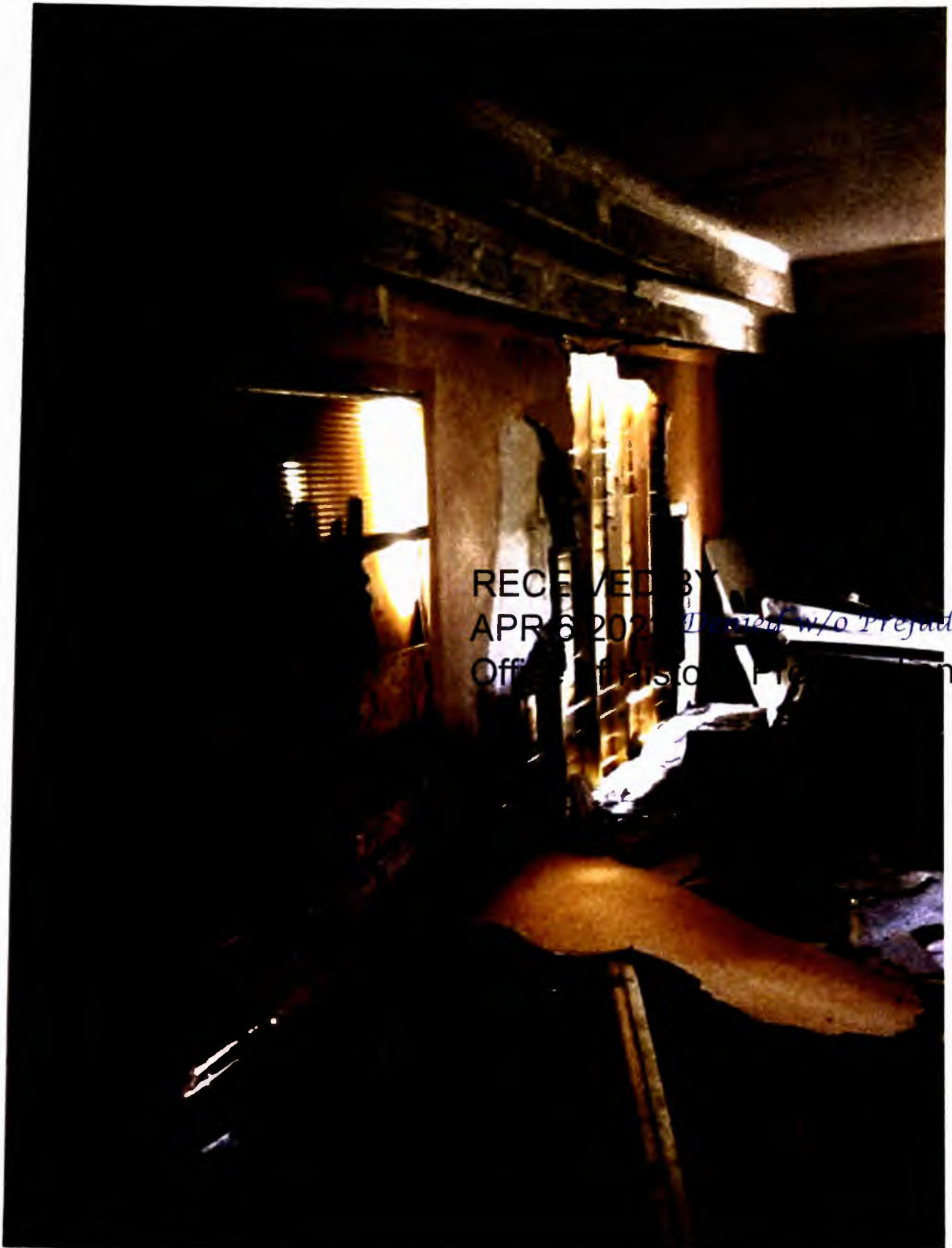
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# Discussion Item #9: 1012 Betterton Cir.

**District: Tenth Street**

**Request(s)**

**A Certificate of Demolition (CD) is requested to:**

- Demolish main residential building.

**Staff Recommendation(s)**

- Approval.

**Task Force Recommendation(s)**

- Approval with conditions.



# Background/History

Case Number	Review Type	Date	Owner	Decision
CD145-022(MD)	Standard	6/1/2015	Cooper, Artis L.	
Demolish a residential structure 3,000 square feet or less pursuant to a court order (51A-4.501(i) of the Dallas City Code).				Approve
CA190-387(MP)	Routine	4/20/2020	Cooper, Artis L.	
<ol style="list-style-type: none"> <li>1. Repair glass on six wood, six-over-six double hung windows.</li> <li>2. Repair foundation.</li> <li>3. Replace roof shingles. Type and color: 30-year single tab "Desert Tan."</li> <li>4. Repair and replace wood siding as needed.</li> <li>5. Remove non-historic chimney, including brick base, and infill with wood siding.</li> <li>6. Repair and replace wood front porch.</li> <li>7. Paint main structure. Brand Sherwin Williams: Body - SW 6329 "Faint Coral" or similar color; Trim - SW 9006 "Rojo Dust" or similar color.</li> </ol>				<p>Approve with conditions</p> <p>Approve with conditions</p> <p>Approve</p> <p>Approve with conditions</p> <p>Approve with conditions</p> <p>Approve with conditions</p> <p>Approve with conditions</p>

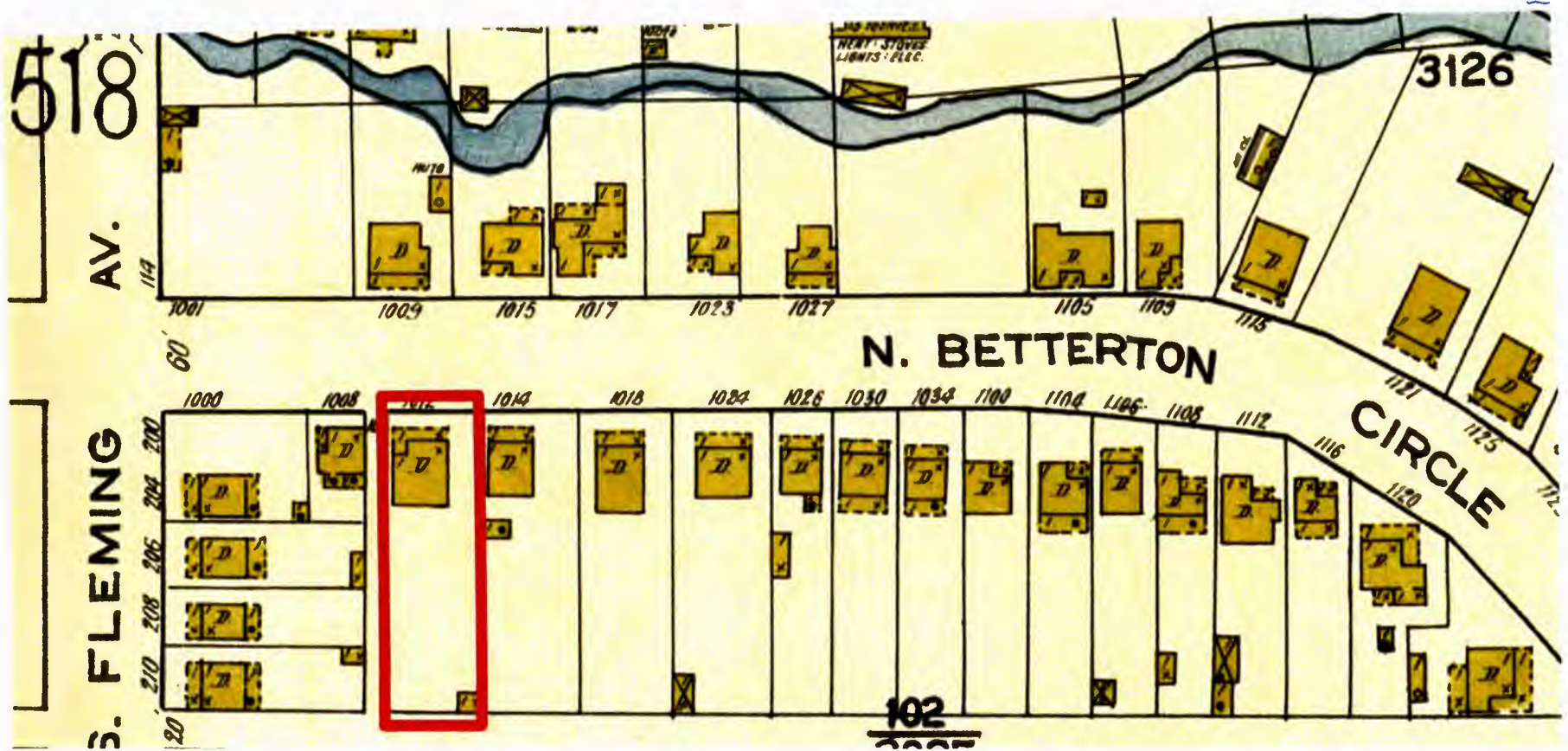


# LOCATION MAP

1012 Betterton Cir

*Basemap Source: Google Earth*





Red rectangle denotes current property lines. Source: 1922 Sanborn Map

Subject Property



Front north elevation. *Source: Google Street View (04/2022)*

# Analysis



# Analysis



**Standard: The structure poses an imminent threat to public health or safety.**

**Section 51A-4.501(h)(4)(C)**

The landmark commission must deny an application to demolish or remove a structure that poses an imminent threat to public health or safety unless it finds that:

- (i) the structure constitutes a documented major and imminent threat to public health and safety;
- (ii) the demolition or removal is required to alleviate the threat to public health and safety; and
- (iii) there is no reasonable way, other than demolition or removal, to eliminate the threat in a timely manner.



## Staff Recommendation(s):

That the request for a Certificate of Demolition to demolish main residential building be **approved** in accordance with specifications dated 5/1/23. The proposed work is consistent with the standards in City Code Section 51A-4.501(h)(4)(C).

## Task Force Recommendation(s):

That the request for a Certificate of Demolition to demolish main residential building be **approved with** the following **conditions**: to come up with a salvage plan for the items that are salvageable; and to replace the current structure with a structure that is of the original size, and massing as the original structure.

# SECTION 4

## Landmark Commission Minutes

May 1, 2023

See Pages 12 -13 Item #9



LANDMARK COMMISSION MINUTES  
 May 1, 2023

accordance with specifications dated 5/1/23. The proposed work is consistent with the standards in City Code Section 51A-4.501(h)(4)(C).

Maker:	Offutt				
Second:	Hadju				
Results:	3/12				<b>MOTION FAILED</b>
		Ayes:	-	3	Fogleman, Hajdu, Offutt
		Against:	-	12	Cummings, Gibson, Guest, Hinojosa, Montgomery, Renaud, Sherman, Spellicy, Swann, Rothenberger, Taylor, Velvin
		Absent:	-	2	Livingston, Slade
		Vacancies:	-	0	

The Chair declared the motion failed.

**Motion# 2**

That the request for a Certificate of Demolition to demolish main residential building be **denied without prejudice** with a finding of fact that condition (iii) of section 51A-4.501(h)(4)(c) has not been satisfied.

Maker:	Swann				
Second:	Sherman				
Results:	12/3				
		Ayes:	-	12	Cummings, Gibson, Guest, Hinojosa, Montgomery, Renaud, Sherman, Spellicy, Swann, Rothenberger, Taylor, Velvin
		Against:	-	3	Fogleman, Hajdu, Offutt
		Absent:	-	2	Livingston, Slade
		Vacancies:	-	0	

The Chair declared the motion denied without prejudice by the Landmark Commission and stated that if the applicant feels that the Landmark Commission erred in their decision, the applicant may appeal the decision with the City Plan Commission for a fee.

**10. 338 S FLEMING AVE**

Tenth Street Neighborhood Historic District  
 CD223-007(RD)  
 Rhonda Dunn

Demolish main building. Standard: imminent threat to public health and safety.

Speakers: For: Randy Shear  
 Larry Johnson

Against: No Speakers

**Motion**

That the request for a Certificate of Demolition to demolish main (commercial) building be **approved** in accordance with drawings and specifications dated 5/1/23. The proposed work is consistent with the standards in City Code Section 51A-4.501(h)(4)(C).

Maker:	Offutt				
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# SECTION 5

Transcript of the  
May 1, 2023  
Landmark Commission  
Hearing  
1012 Betterton Circle  
CD223-008(RD)

IN RE:

1210 BETTERTON CIRCLE

AUDIO TRANSCRIPTION OF THE PUBLIC HEARING OF

5/1/23

TRANSCRIBED BY MAUREEN C. BRZYCKI, COURT REPORTER

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TRANSCRIPTIONIST DISCLAIMER: Speaker identifications contained herein have been done to the best of my ability. Misidentification of speakers may occur due to things beyond my control, e.g., similar voice tones, poor audio quality, overspeaking, overlapping room noises, etc.

Magna Legal Services

866-624-6221

[www.MagnaLS.com](http://www.MagnaLS.com)

1 THE CHAIRPERSON: The next case we  
2 shall here is D9.

3 DR. DUNN: Dr. Rhonda Dunn, speaking  
4 on behalf of City staff, presenting  
5 discussion item D9. The subject  
6 property is located at 1012 Betterton  
7 Circle in the Tenth Street neighborhood  
8 historic district. The case number is  
9 CD223-008RD.

10 The request is to demolish a  
11 main residential building. The standard  
12 being used is imminent threat to public  
13 health and safety. The staff  
14 recommendation is that the request for a  
15 certificate of demolition to demolish  
16 main residential building be approved in  
17 accordance with the specifications dated  
18 5/1/2023. The proposed work is  
19 consistent with the City code.

20 THE CHAIRPERSON: Task force? You  
21 drifted. Okay. Turn your microphone on  
22 too.

23 TASK FORCE SPEAKER: Yeah. The  
24 request for task force recommendation --



1           that the request for certificate of  
2           demolition to demolish main residential  
3           building be approved with the following  
4           conditions. Come up with a salvageable  
5           plan for the items that are salvageable  
6           and replace the current structure with a  
7           structure that is of original size and  
8           massing of the original structure.

9           THE CHAIRPERSON: All right.

10                   We have registered speakers.  
11           The first is Artis L. Cooper.

12           MR. COOPER: Yes.

13           THE CHAIRPERSON: Hello, sir.

14                   Can you please give us your  
15           name and address.

16           MR. COOPER: My name is Artis L.  
17           Cooper, 187 County Road, 33722 De Berry,  
18           Texas.

19           THE CHAIRPERSON: Thank you.

20                   You might want to move that  
21           microphone -- you're tall, so you might  
22           want to move it up to your mouth a bit.

23                   And then you swear or affirm  
24           that you'll tell us the truth?

1 MR. COOPER: I do.

2 THE CHAIRPERSON: All right.

3 You have three minutes to  
4 discuss your application.

5 MR. COOPER: First I'd like to say I  
6 heard what the restrictions are with  
7 conditions. I don't understand the  
8 conditions because one of the main  
9 problems with the house is that I bought  
10 the house at a certain dimension, and  
11 when I was going through the process of  
12 trying to get someone to fix the house,  
13 the City said that the house had  
14 add-ons. So the add-ons was what took  
15 the house out of being contributing as  
16 far historical. So I bought the house  
17 at 1800 feet, and they were saying the  
18 house by the City diagram was 1200 feet.  
19 And before the house ever became  
20 historical, I had already started  
21 remodeling the house because I bought  
22 the house in '83, and I had started  
23 remodeling the house because that's what  
24 I bought the house to do because I am

1 a -- I guess you'd say a descendant of a  
2 resident of the neighborhood. So I  
3 bought the house to fix it up. And  
4 during that process, as everyone keeps  
5 saying it's historical, the majority of  
6 that material -- the outside material on  
7 that house is not original. Because in  
8 the process of trying to make it look  
9 like one whole house instead of a lot of  
10 add-on pieces, I bought the wood to make  
11 the house to look as it's one structure.  
12 Only about one-fourth of outside  
13 structure is 117, so I don't know what I  
14 would be saving as far as the Historical  
15 Commission and the outside of the house,  
16 which I had so many problems of trying  
17 to fix the house with code and everybody  
18 else. And that came up after I found  
19 out you made it historical. Because I  
20 had changed the outside, the windows and  
21 everything. And then once it became  
22 historical, then I started going through  
23 burglary. I really couldn't fix the  
24 house no more.

1 THE CHAIRPERSON: All right.

2 Thank you, sir. We have two  
3 other speakers. And then we'll be  
4 asking people questions.

5 Charles Cooper?

6 MR. COOPER: Good afternoon. My  
7 name is Charles Cooper. I stay at 314  
8 Cedar Creek Drive in Dunfield, Texas,  
9 and I promise to tell the truth.

10 THE CHAIRPERSON: Thank you, sir.  
11 You've listened to a lot of these,  
12 haven't you? You now have three  
13 minutes.

14 MR. COOPER: I've been familiar with  
15 that process -- my brother really wasn't  
16 going to be here because he's so  
17 frustrated. Well, like he said, he  
18 bought this house in 1982 before it  
19 became historical. He did a lot of work  
20 and then through blight, lack of City  
21 services, the homeless, crime and drugs,  
22 if -- he couldn't live there. Because  
23 he couldn't go to work and come home and  
24 his stuff still be there. So he left,

1           and then the house began to deteriorate.  
2           And every time he would try to do  
3           something, the City would say, you can't  
4           do this because it's in a historical  
5           district. And he always tried to tell  
6           them, it's noncontributing and after  
7           talking to Ms. Dunn, I -- like I told  
8           them, we just wanted the opportunity to  
9           come back to where -- where my  
10          grandmother has been here nextdoor for a  
11          hundred years. He bought the house from  
12          Ms. Williams in '82, so he's been there  
13          40 years.

14                         We just want to be able to  
15          leave our children a home that they  
16          would be proud of that would be  
17          compatible with the historical district.  
18          But to do that, to try to renovate or  
19          restore this house is cost prohibitive.  
20          It needs a new foundation, new retaining  
21          walls. Like he said, most of the  
22          original structure is not even original.  
23          It's just what they see, and then they  
24          want to restrict him to -- he didn't buy

1 a 1400 square foot house. He bought an  
2 1800 square foot house. So to reduce  
3 that would be to reduce his living space.  
4 So I just want to -- and I'm here too to  
5 answer any questions that the Commission  
6 might want us to address. But that's  
7 what we going to do.

8 We know we're going to have to  
9 start over from the foundation, the  
10 drainage, the retaining walls, the  
11 structure and all I'll always coordinate  
12 with Ms. Dunn on what her opinion is on  
13 what we propose to do. That's my  
14 opinion. Thank you.

15 THE CHAIRPERSON: All right.

16 Thank you, sir. And we have  
17 one more, Larry Johnson.

18 LARRY JOHNSON: Good afternoon.  
19 Larry Johnson, 214 Landis. I swear to  
20 tell the truth, the whole truth, and  
21 nothing but the truth.

22 We're in a tight spot today.  
23 I'm standing here on behalf of the Tenth  
24 Street Residential Association. We have

1 all reviewed this case, and the reason  
2 why we're for it is actually because of  
3 our large -- due in part to the three  
4 thousand square foot rule, which  
5 basically says that any structure under  
6 3000 square feet with a court order can  
7 be torn down. And it puts us in a tight  
8 spot. It puts in a position to where we  
9 have to take lemons and make lemonade.  
10 And after speaking with the applicant,  
11 what he's desiring to do is to take down  
12 the current structure is to do a remove  
13 and restore.

14 And so when I first got  
15 involved with the District, we were  
16 going through a demolition, and right  
17 now what we have is an empty lot. And  
18 so in a case where an applicant wants  
19 to -- in the case where an applicant has  
20 done their due diligence, and they have  
21 found that the structure is either  
22 irreparable or it would be better to,  
23 in their eyes, to rebuild. Anything is  
24 better than a vacant lot. And so until

1 the three thousand square foot rule is  
2 abolished, we're kind of having to take  
3 lemons and make lemonade.

4 And so beside that, to Artis  
5 Cooper's credit, I actually worked with  
6 him physically on this house just to be  
7 told that the City of Dallas on numerous  
8 occasions has come through and has told  
9 him to stop work.

10 We don't understand that.  
11 Because he was not doing anything to  
12 change the curb view of the property.  
13 He was simply fixing his house. I  
14 understand his frustration. I get it.  
15 But because of the three thousand square  
16 foot rule and because of what he could  
17 do, when I reached out to the other  
18 community members, we decided that what  
19 it is he's looking to do, while it's not  
20 the best thing, it's not all that we  
21 want, we would prefer the house be fixed  
22 up but given where we are, this is kind  
23 of -- it's a tough decision for all of  
24 us.



1 Thank you.

2 THE CHAIRPERSON: Thank you.

3 I would like to ask City  
4 attorney to confirm that you told us  
5 during your briefing that there is not  
6 an in-place court order on this one,  
7 correct?

8 CITY ATTORNEY: I said I don't know  
9 if it has expired. I don't -- that was  
10 prior to my time at the City, so I don't  
11 know.

12 But again, we are here under  
13 the standard that it's demolished --  
14 remove a structure that poses an  
15 imminent threat to public health or  
16 safety, so you're using the -- those  
17 standards that the structure constitutes  
18 a documented major immanent threat to  
19 public health and safety. The  
20 demolition or removal is required to  
21 alleviate the threat to public health  
22 and safety, and there is no reasonable  
23 way other than demolition or removal to  
24 eliminate the threat in a timely --

1 manner.

2 So if it means all of those  
3 three, you must approve. However, if it  
4 doesn't meet one of those, you can deny  
5 based off, which one this particular  
6 property does not meet.

7 THE CHAIRPERSON: All righty.

8 Thank you. So what questions  
9 do commissioners have for staff or any  
10 of our speakers?

11 MALE COMMISSIONER: I have a  
12 question for applicant.

13 It was brought up that you're  
14 going to take this down, and you're  
15 planning on -- to do a restore -- or a  
16 rebuild and likewise, similar to the  
17 house that is there; is that correct?

18 APPLICANT REPRESENTATIVE: That's  
19 correct.

20 MALE COMMISSIONER: And then it  
21 seems like really one of the only things  
22 that is kind of popping up on this  
23 salvage plan, to be able -- do we have a  
24 documented -- just a simple floor plan

1 of what this -- what you have existing?  
2 I mean, I see some photographs, but I  
3 haven't seen a plan.

4 APPLICANT REPRESENTATIVE: There's  
5 nothing existing. It's all been  
6 plumbing, electrical --

7 MALE COMMISSIONER: I understand. I  
8 understand.

9 Is there a plan? Is there just  
10 a simple plan showing where the windows  
11 are, where the doors are, the roof, just  
12 a simple plan of the house?

13 APPLICANT REPRESENTATIVE: Just  
14 pictures.

15 MALE COMMISSIONER: Just pictures.

16 The only thing I would be  
17 concerned with is -- I understand it  
18 needs to -- the reasons why it needs to  
19 come down, I understand that. But I  
20 also understand to make sure that we  
21 have it documented before it comes down,  
22 so when we go back -- when you go back  
23 to put it back, that you're having  
24 something that's somewhat accurate to

1 work off of.

2 So how are you answering that  
3 question, if you have --

4 APPLICANT REPRESENTATIVE: Well, are  
5 you asking me if we finna(sic) build the  
6 same house back?

7 MALE COMMISSIONER: Well, same  
8 house -- that's what I thought I heard  
9 that you're going to restore this house  
10 when you --

11 APPLICANT REPRESENTATIVE: We're  
12 going to build within the criteria that  
13 y'all allow us when we present a new  
14 plan.

15 MALE COMMISSIONER: Right. When you  
16 present it. Right.

17 THE WITNESS: That's the house we  
18 going to build, that.

19 MALE COMMISSIONER: Okay.

20 So it could be something  
21 completely different than this.

22 THE WITNESS: It's going to be  
23 within the criteria of the historical  
24 district.

1 MALE COMMISSIONER: Right. Okay.

2 THE WITNESS: See my thing of it is  
3 that be -- to be honest with you, it's  
4 got to -- that house -- the whole thing  
5 of the house, because I am construction  
6 savvy, it take more to fix that house  
7 then to get a new structure back.

8 MALE COMMISSIONER: Right.

9 And our concern is usually  
10 the -- as you know, the historic  
11 materials -- the historic facades, as  
12 you know, a lot of these neighborhoods  
13 that we're -- and trying to maintain  
14 some of that. And if we can't maintain  
15 it, how can we celebrate it when you do  
16 build it back? Under those -- and  
17 that's why we have those criteria.

18 APPLICANT REPRESENTATIVE: Oh, I  
19 understand.

20 But what I'm saying is for that  
21 house though, ain't none of that left.  
22 I mean, that was part of the whole deal  
23 because of the vandalism. That's the  
24 reason -- they was breaking out all the

1 windows, the doors, everything. I

2 mean --

3 MALE COMMISSIONER: I understand.

4 APPLICANT REPRESENTATIVE: So my  
5 thing is now what we want to do is -- is  
6 stay within the criteria of the  
7 historical district, but be able to  
8 maximize that lot what we can do.

9 Because we know the park is coming, we  
10 know everything is going on, but we want  
11 to stay in the criteria, but we also  
12 would like to make that area something  
13 that people will see --

14 MALE COMMISSIONER: I understand.

15 APPLICANT REPRESENTATIVE: And want  
16 to come to it, if that makes --

17 MALE COMMISSIONER: I understand.

18 I'm following you. My only --  
19 going back to my question is -- I would  
20 just like to have some sort of  
21 documentation of what's there because  
22 once it's gone, it's gone. And there's  
23 no documentation of what the original  
24 was.

1           APPLICANT REPRESENTATIVE: Well,  
2           from my understanding --

3           MALE COMMISSIONER: And also some  
4           recording of the materials that you may  
5           have twenty percent, materials left, and  
6           it would be a good understanding of --  
7           understanding of what you have left on  
8           the --

9           APPLICANT REPRESENTATIVE: What are  
10          you saying, twenty percent of? Of that  
11          structure, or --

12          MALE COMMISSIONER: Yeah. Like your  
13          siding.

14          APPLICANT REPRESENTATIVE: Well,  
15          that siding is not historical no more,  
16          sir. That's what I was trying to  
17          express.

18          MALE COMMISSIONER: Yeah.

19          APPLICANT REPRESENTATIVE: The  
20          house -- when the fire happened, it  
21          destroyed -- that one-fourth.

22          MALE COMMISSIONER: Mm-hm.

23          APPLICANT REPRESENTATIVE: Because I  
24          had to replace all of that because of

1 previous fires, previous vandalism,  
2 windows and doors, I lost everything out  
3 that house to be honest with you --

4 MALE COMMISSIONER: So what you're  
5 saying --

6 APPLICANT REPRESENTATIVE: The  
7 cabinets, the sinks, the wiring, the  
8 plumbing is in the ground. I mean,  
9 that's -- that's the reason. When I had  
10 the house estimated for construction,  
11 what the guy was really telling me is  
12 that they was going to build a house  
13 within a house. In other words, they  
14 were going to charge me to slowly  
15 demolition the house while  
16 reconstructing it step by step, which  
17 is -- came up to an astronomical figure,  
18 if that makes any sense. And majority  
19 of the wood -- when I evaluate it is,  
20 like my brother said, we got lead, we  
21 got humidity. The wood is rotting.  
22 It's really -- it's a certain board in  
23 there, if you move it, that house will  
24 fall in. And that's the reason why I



1 want to get out. Because I got people  
2 going into the house and the flooring is  
3 about to fall in, and it's really  
4 creating a liability.

5 If somebody get hurt, I can get  
6 sued. And I'm not trying to lose the  
7 property so I will be able to go back  
8 and put another structure there. I want  
9 to pass it onto my family.

10 I mean, I had a contractor out  
11 and he walked out and said it was too  
12 dangerous to be in there.

13 CITY ATTORNEY: Madame Chair, if I  
14 may, again, we're looking at whether or  
15 not this meets the criteria for imminent  
16 threat to public health and safety.  
17 Yes, while we are talking about historic  
18 preservation, and it's a good thing to  
19 document, but there -- you do have in  
20 terms of materials, that's not a  
21 requirement. And talking about what's  
22 going to be built in the future, that's  
23 also not on the agenda, so we also  
24 shouldn't be talking about it.

1                   But they would have to build  
2                   within the new construction preservation  
3                   criteria of the historic district.

4                   MALE COMMISSIONER: I understand.

5                   The thing I was getting at on  
6                   some of the recommendations --

7                   COMMISSIONER OFFIT: Madame Chair --

8                   MALE COMMISSIONER: -- there's been  
9                   salvage plans set on the  
10                  recommendations, so --

11                  THE CHAIRPERSON: Hang on, Mr.  
12                  Offit.

13                  MALE COMMISSIONER: -- so I was just  
14                  trying to see where are on the salvage  
15                  plans.

16                  CITY ATTORNEY: And -- right.

17                  That was task force  
18                  recommendations, but I had reiterated  
19                  during the briefing that those were not  
20                  appropriate conditions to attach to  
21                  the -- if this Commission were to  
22                  approve, those are not appropriate  
23                  conditions to approve the certificate of  
24                  demolition, as it does not speak to the

1 standards.

2 THE CHAIRPERSON: If Mr. Cummings is  
3 finished -- are you finished? Then  
4 Commission Offit would like to speak.

5 COMMISSIONER OFFIT: I'm ready to  
6 make a motion if there's no other  
7 question.

8 THE CHAIRPERSON: Are there any  
9 other questions?

10 COMMISSIONER SWAN: I actually do  
11 have a question.

12 THE CHAIRPERSON: Okay.

13 Commissioner Swan also does  
14 wish to ask a question.

15 COMMISSIONER SWAN: I have a  
16 question for Counsel.

17 In as much as the promise of a  
18 new construction has been dangled in  
19 front of us in this meeting, it sounds  
20 to me like this -- this case is sounding  
21 more like it falls under the standard of  
22 replacement with a more appropriate  
23 structure.

24 CITY ATTORNEY: Yes.

1                   But they came under the  
2                   application for the imminent threat to  
3                   public health and safety. And that is  
4                   the standard we are to use because  
5                   that's what was posted.

6                   COMMISSIONER SWAN: Okay.

7                   CITY ATTORNEY: So we have to follow  
8                   what was on the agenda.

9                   COMMISSIONER SWAN: Okay.

10                  Then I have a question for  
11                  Mr. Johnson.

12                  LARRY JOHNSON: Yes.

13                  COMMISSIONER SWAN: Mr. Johnson,  
14                  do -- do you as a representative --  
15                  well, does the Tenth Street Residential  
16                  Association believe that this house  
17                  poses a major and imminent threat to  
18                  public health and safety?

19                  LARRY JOHNSON: No, we don't feel  
20                  like it poses a threat.

21                  COMMISSIONER SWAN: Okay. Thank  
22                  you.

23                  THE CHAIRPERSON: Are you done,  
24                  Mr. Swan?

1 COMMISSIONER SWAN: I'm done.

2 THE CHAIRPERSON: Are there any  
3 other questions? Because Mr. Offit has  
4 a motion to make.

5 Okay. Commissioner Offit,  
6 please make your motion.

7 COMMISSIONER OFFIT: On the matter  
8 of 1012 Betterton Circle, Tenth Street  
9 Neighborhood Historic District,  
10 CD223-008RD, I move to approve staff and  
11 task force recommendations as presented.

12 CITY ATTORNEY: Commissioner Offit,  
13 with staff force recommendation, they  
14 had those conditions that weren't  
15 appropriate, so it would be just per the  
16 staff recommendations that it does meet  
17 the standards in the section of the  
18 code, and it's just approving the  
19 certificate of demolition without those  
20 conditions.

21 COMMISSIONER OFFIT: Okay.

22 THE CHAIRPERSON: All right.

23 Are there -- is there a second  
24 on this motion?

1 FEMALE COMMISSIONER: I second.

2 THE CHAIRPERSON: I think -- I think  
3 we'll take Mr. Fogelman's second. He  
4 was first, but quiet. Turn your  
5 microphone on. Okay. All right.

6 Is there any further  
7 discussion?

8 Commissioner Swan?

9 COMMISSIONER SWAN: Yeah.

10 I just heard testimony from the  
11 community that they do not believe this  
12 house poses a major imminent threat to  
13 public health and safety. I'm inclined  
14 to go with that testimony. I see  
15 Counsel moving in action.

16 CITY ATTORNEY: The standard is  
17 whether the structure constitutes a  
18 documented major and imminent threat to  
19 public healthy and safety. It's not  
20 based off testimony, so if there's a  
21 document that says this is a property  
22 that is imminent threat to public health  
23 and safety, then you have to rely on  
24 that piece of documentation.

1                   COMMISSIONER SWAN: I see.

2                   THE CHAIRPERSON: May I ask,  
3 Counsel, but what if we feel that the --  
4 the information presented by the  
5 consultant who said it was in terrible  
6 condition, we believe some of their  
7 points were not as serious as they  
8 proclaim them to be. I'm saying we as  
9 in me, and I'm not saying I actually  
10 know that much, except I know older  
11 houses sometimes don't have as much  
12 support as newer houses, and that can  
13 always be repaired by adding. So what  
14 if we question whether the documentation  
15 provided actually proves that it's an  
16 imminent threat?

17                   CITY ATTORNEY: You can use the  
18 other parts of the standard, which say  
19 the -- the demolition or removal is  
20 required to alleviate the threat to  
21 public health and safety. If you  
22 don't -- in your opinion, you don't  
23 believe that -- because it is  
24 documented, so we can't take that

1 condition away. But if you think  
2 there's other ways to alleviate the  
3 imminent threat, as opposed to  
4 demolition, then you can use that as  
5 well. But you would have to make those  
6 findings of fact on the record.

7 THE CHAIRPERSON: And also, if we  
8 were to not approve the demolition  
9 today, would it be possible for the  
10 applicant to come back and ask for  
11 demolition permit under the other  
12 standard where they would like to  
13 replace with something more compatible?

14 CITY ATTORNEY: If you deny without  
15 prejudice, yes, they can come back with  
16 the same standard or they can come back  
17 with a different standard.

18 COMMISSIONER SWAN: Okay.

19 THE CHAIRPERSON: Okay.

20 Sorry to have interrupted you,  
21 Mr. Swan.

22 COMMISSIONER SWAN: That's okay.  
23 Thank you for recognizing -- because  
24 what I'm hearing today -- what I'm



1           seeing -- what we are seeing is a --  
2           recommendations made by the task force  
3           that we realize we cannot make as  
4           conditions today.

5                       However, the -- there is  
6           something behind -- there's a spirit  
7           behind those conditions, and I'm just  
8           looking for ways to preserve the spirit  
9           of the conditions. And perhaps that  
10          is -- and also that -- the promise of  
11          something other than a vacant lot has  
12          been suggested to us today.

13                      You know, a house. Something  
14          that could be passed down to the family.  
15          So what I'm saying is that I don't think  
16          that -- in response what are the other  
17          two conditions? One is demolition and  
18          only way to do so in a timely manner.

19                      CITY ATTORNEY: Right.

20                      COMMISSIONER SWAN: Yes.

21                      CITY ATTORNEY: So this Commission  
22          has to approve the application to  
23          demolish if it finds the structure  
24          constitutes a documented major and

1           imminent threat to public health and  
2           safety; two, that demolition or removal  
3           is required to alleviate that threat to  
4           public level and safety. And three,  
5           there is no reasonable way, other than  
6           demolition or removal to eliminate the  
7           threat in a timely manner.

8                        So if it meets those three,  
9           then you must approve it.

10                      COMMISSIONER SWAN: Okay.

11                      And I would say with number  
12           three, I think we could still be  
13           addressing this in a timely manner with  
14           the applicant to come back with a  
15           proposal for what -- what he intends to  
16           replace the house with.

17                      CITY ATTORNEY: Right.

18                      But we're trying to diminish  
19           the imminent threat to public health and  
20           safety. So saying what's going to --  
21           what's going to replace, how --

22                      COMMISSIONER SWAN: Because if that  
23           is accepted by this body, then we can go  
24           ahead and address the certificate.

1 CITY ATTORNEY: But we're saying  
2 that the property the way it is, it is a  
3 threat to public health and safety, so  
4 -- there's no other way to eliminate  
5 that threat in a timely manner other  
6 than to demolish it. Coming up with  
7 what's going to replace it doesn't  
8 really talk to the -- that it -- that  
9 the structure is an imminent threat to  
10 public health and safety.

11 Does that make sense? We're  
12 trying to eliminate that it's a threat to  
13 the public health and safety to the City,  
14 so talking about what it's going to  
15 replace it with isn't eliminating that  
16 threat that it's still a public -- that  
17 it's still a threat to the public health  
18 and safety of the City.

19 COMMISSIONER TAYLOR: This is  
20 Commissioner Taylor --

21 THE CHAIRPERSON: Go ahead,  
22 Commissioner Taylor.

23 COMMISSIONER TAYLOR: As someone who  
24 actually walked around -- as someone who

1           has actually walked around this building  
2           and seen the bamboo, you know, garden in  
3           the back, it is a home that is in dire  
4           need of repair, and it's -- it can't be  
5           worked on in the condition it's in. I  
6           still cannot approve a demolition for  
7           the structure with -- without a plan for  
8           moving forward, whether it is rebuild or  
9           raise. And so I understand the issue of  
10          the public health, but -- but for me, I  
11          can't support the demolition in its  
12          state right now just to leave a vacant  
13          lot.

14                 THE CHAIRPERSON: Mr. Taylor, might  
15                 I ask when you were near the building,  
16                 were you at all concerned it would fall  
17                 upon you?

18                 COMMISSIONER TAYLOR: No, but I am  
19                 --

20                 THE CHAIRPERSON: I'm just asking  
21                 for your evaluation of whether you  
22                 thought it was going to fall down.

23                 COMMISSIONER TAYLOR: No, it was in  
24                 dire structural need, and when I walked

1           it, it was close to two years ago. No,  
2           actually three years ago. So it -- it  
3           definitely had deteriorated in those  
4           years, but as just as a resident of  
5           Tenth Street and someone who has seen  
6           the conditions of these homes, I can't  
7           just blanketly say, let's demolish it.

8           THE CHAIRPERSON: Okay.

9                        What if the truth is you are  
10           required to approve the demolition if  
11           you think it's a danger without any  
12           other considerations, which is what I  
13           think our attorney is trying to tell us,  
14           that we don't get to think ahead  
15           necessarily. Then do you change or do  
16           you stick with that? Because I'm  
17           confused. I'm trying to make up my mind  
18           where I stand.

19           COMMISSIONER TAYLOR: I understand  
20           that they want to demolish it, but I  
21           will not support the demolishing of the  
22           building.

23           THE CHAIRPERSON: All right. Thank  
24           you.

1 Mr. Offit has something to add.

2 CITY ATTORNEY: I'm sorry, but  
3 again, we cannot rely on that we don't  
4 know what's going to happen in the  
5 future. Because that's not part of the  
6 standard. So if you are to deny this  
7 demolition, it needs to be with a  
8 finding of fact it doesn't meet one part  
9 of the standard that I read.

10 THE CHAIRPERSON: Okay.

11 Mr. Offit?

12 COMMISSIONER OFFIT: Yes. And I --  
13 (inaudible) remind everyone, we have  
14 a -- we had a very similar situation  
15 that went on for two years, I believe,  
16 where we wouldn't allow somebody to  
17 demolish something, and had them come  
18 back with a new bill, we approved the  
19 new bill, and then still refused to let  
20 them demolish that. So we're sending  
21 all kinds of mixed signals there. And  
22 I've got to go with staff and what the  
23 folks that are there touching that thing  
24 understand and see. Thank you.

1 THE CHAIRPERSON: All right.

2 Thank you. I do remind the  
3 Commissioners what we do on one case  
4 does not set up a precedent for the  
5 others. Though changing our mind and  
6 stringing people along, that we might be  
7 accused of, if we ever did that too much  
8 is certainly something to be avoided by  
9 this Commission. Because we would like  
10 to be able to give people valid answers  
11 that they can count on.

12 Are there any other comments to  
13 make before we vote on the motion before  
14 us?

15 MALE COMMISSIONER: I just wanted to  
16 clarify something. So if they demolish  
17 this, which it sounds like it is  
18 probably a danger to the public, aren't  
19 they going to have to come back to us a  
20 body to decide what they're going to  
21 build on the property?

22 THE CHAIRPERSON: To build something  
23 new, they would have to go through the  
24 CA process, and it would have to be

1 approved. However, we cannot make them  
2 build something. That's, I think, the  
3 fear of the empty lot thing. That we  
4 can only tell people whether they have  
5 permission to build their exact proposal  
6 or not. We cannot force anyone to build  
7 a house.

8 MALE COMMISSIONER: Okay.  
9 Understood.

10 THE CHAIRPERSON: Okay.

11 Are we ready to vote?

12 FEMALE COMMISSIONER: Madame Chair,  
13 can somebody restate what was proposed  
14 exactly so I can hear it? We've heard a  
15 lot of words floating around. I just  
16 want to --

17 THE CHAIRPERSON: Okay.

18 The motion was to approve the  
19 certificate of demolition of the main  
20 residential building in accordance with  
21 the specifications dated 5/1/23  
22 following staff recommendations.

23 FEMALE COMMISSIONER: Okay.

24 THE CHAIRPERSON: Okay.



1 I know this one is hard to  
2 decide your vote on. Everyone needs to  
3 decide.

4 MALE COMMISSIONER: Okay.

5 THE CHAIRPERSON: If you have more  
6 to say, yes.

7 FEMALE COMMISSIONER: I have tad  
8 more to say. And I won't drag this on.  
9 This one is difficult, and I really  
10 appreciate Commissioner Taylor saying  
11 what he said. Because he lives in the  
12 District along with Commissioner Swan.  
13 The Tenth Street Historic District has  
14 been in a fragile state for a long, long  
15 time. We have just heard this morning  
16 that money is available to survey the  
17 District, and from that survey, there  
18 would be some interesting outcomes and  
19 hopefully some strong recommendations.

20 In the meantime with the 3000  
21 square foot rule, the City because of  
22 its 3000 square foot rule is largely  
23 systematically demolishing Tenth Street  
24 itself. So there are other standards

1           that could be met in the absence of a  
2           plan to rebuild. I won't support the  
3           motion, even though I feel Mr. Cooper's  
4           pain. I know this is hard. But I'm  
5           going to lean against not supporting.  
6           Thank you.

7           THE CHAIRPERSON: Did you wish to  
8           continue, Mr. Swan?

9           COMMISSIONER SWAN: Yeah.

10           The last thing I'm going to say  
11           is I think there's a reasonable way, and  
12           I think that Commissioner Taylor has  
13           touched on it. I think, if I understand  
14           it correctly, and correct me if I'm not,  
15           he is saying the condition of this house  
16           is -- it is similarly fragile like many  
17           of the other structures in the district,  
18           and we could go one by one by one and  
19           demolish them all, but I -- the use of a  
20           different standard and the presentation  
21           of something, I think, gives the  
22           neighborhood a lot more reassurance that  
23           something is going to be there other  
24           than a vacant lot.

1 THE CHAIRPERSON: All right.

2 COMMISSIONER SWAN: So for that  
3 reason, I'm opposing this motion. I  
4 hope another one can come back with a  
5 different start.

6 THE CHAIRPERSON: As we move forward  
7 to vote --

8 COMMISSIONER TAYLOR: What I'm  
9 trying -- I think what I am trying to  
10 say is that I think the (inaudible) path  
11 for the applicant to achieve what they  
12 ultimately want to achieve, I just don't  
13 think that this path that they set forth  
14 today with the health -- the safety  
15 issue of the home is the path to achieve  
16 that.

17 THE CHAIRPERSON: I understand.

18 And I think that all of us have  
19 our reasons why we are trying to think  
20 of which way way want to go on this.

21 So we are going to call for the  
22 vote. We're going to remember that what  
23 we are voting on, does this meet these  
24 three standards that prove it's a

1 danger. If it doesn't, we can deny the  
2 application for demolition. If it does  
3 meet those three standards, we should  
4 approve it to keep people from getting  
5 hurt.

6 Other ideas in our head about  
7 what we hope for in the future and such  
8 are not an official part of this, but  
9 obviously they're in our head while we  
10 make our decision. I also want to note  
11 our applicants, however this goes, I  
12 really appreciate your desire to pass  
13 onto your children the ability to love  
14 the neighborhood, which your ancestors  
15 lived. We want that to happen too.  
16 Because that is the most important thing  
17 that can happen in a historic district.

18 So I don't know which way this  
19 vote is going. It's real hard to tell.  
20 I'm now going to call for a vote. All  
21 those in favor of this motion, please  
22 say aye.

23 COMMISSIONER OFFIT: Aye.

24 THE CHAIRPERSON: Is Mr. Offit the

1           only one who voted in favor of this  
2           motion?

3                         And -- okay, so we have three  
4           votes. We're going to have the nays  
5           raise their hands, and then do the roll  
6           call thing just because it's so  
7           important that we get this right.

8                         All those opposed to this  
9           motion, please say nay.

10                        MULTIPLE SPEAKERS:   Nay.

11                        THE CHAIRPERSON:   Okay.

12                        Elaine will please do the roll  
13           call vote for certainty.

14                        FEMALE SPEAKER ELAINE:   District 1,  
15           Commissioner Sherman?

16                        COMMISSIONER SHERMAN:   Nay.

17                        FEMALE SPEAKER ELAINE:   District 2,  
18           Commissioner Montgomery.

19                        COMMISSIONER MONTGOMERY:   Nay.

20                        FEMALE SPEAKER ELAINE:   District 3,  
21           Commissioner Fogelman.

22                        COMMISSIONER FOGELMAN:   Yes.

23                        FEMALE SPEAKER ELAINE:   District 4,  
24           Commissioner Swan?

1 COMMISSIONER SWAN: Nay.

2 FEMALE SPEAKER ELAINE: District 5,  
3 Commissioner Offit.

4 COMMISSIONER OFFIT: For.

5 FEMALE SPEAKER ELAINE: District 6,  
6 Commissioner Henajosa(ph).

7 COMMISSIONER HENAJOSA: Nay.

8 FEMALE SPEAKER ELAINE: District 8,  
9 Commissioner Spellacy.

10 COMMISSIONER SPELLACY: Nay.

11 FEMALE SPEAKER ELAINE: District 10,  
12 Commissioner Hidu(ph).

13 COMMISSIONER HIDU: For.

14 FEMALE SPEAKER ELAINE: District 11,  
15 Commissioner Gibson.

16 COMMISSIONER GIBSON: Nay.

17 FEMALE SPEAKER ELAINE: District 12,  
18 Commissioner Rothenberger.

19 COMMISSIONER ROTHERNBERGER: Nay.

20 FEMALE SPEAKER ELAINE: District 14,  
21 Commissioner Guest?

22 COMMISSIONER GUEST: Nay.

23 FEMALE SPEAKER ELAINE: District 15,  
24 Commissioner Velvin.

1 COMMISSIONER VELVIN: Nay.

2 FEMALE SPEAKER ELAINE: Commissioner  
3 Taylor?

4 COMMISSIONER TAYLOR: Nay.

5 FEMALE SPEAKER ELAINE: And  
6 Commissioner Cummings?

7 COMMISSIONER CUMMINGS: Nay.

8 FEMALE SPEAKER ELAINE: We have two  
9 that's for it -- okay. So I have  
10 Fogelman, Offit and Hidu. Oh, yes.  
11 Okay. Three.

12 THE CHAIRPERSON: All right. So  
13 this motion has failed. I need a new  
14 motion. Commission Swan, are you --

15 COMMISSIONER SWAN: Yes.

16 THE CHAIRPERSON: -- going to make  
17 the motion?

18 COMMISSIONER SWAN: Yes.

19 I move that we -- in the matter  
20 of -- in the matter of 338, 1012  
21 Betterton Circle, CD223-008RD, that we  
22 deny without prejudice with a finding of  
23 fact that it does not meet number 3 of  
24 Section 51A-4.501H4C.

1 FEMALE COMMISSIONER: Second?

2 THE CHAIRPERSON: Any further  
3 discussion on this one? Then we're  
4 ready to vote on this one.

5 All those in favor of this  
6 motion, please say Aye.

7 MULTIPLE SPEAKERS: Aye.

8 THE CHAIRPERSON: All those opposed  
9 to this motion please say so?

10 COMMISSIONER OFFIT: Nay.

11 THE CHAIRPERSON: All right.

12 So those in opposition are  
13 Commissioner Fogelman, Commissioner  
14 Offit and Commissioner Hidu? Anybody  
15 disagree with that?

16 All right. I don't think we  
17 need another roll call because it's just  
18 the same as the first one. And no one  
19 is speaking that they voted differently.  
20 That means this motion is carried.

21 This is a denial, Mr. Cooper,  
22 not without prejudice, but it's still a  
23 denial. You could for a fee appeal to  
24 city planning commission, and their only



1 standard would be did we rule in error.  
2 But you can also come back to us after,  
3 and you can confirm with Dr. Dunn, who  
4 I'm sure listened to every single word  
5 we said, as is her job, and she loaves  
6 us. And she would be happy to help find  
7 a path to move forward.

8 We are all in support of seeing  
9 a happy family home on this lot one way  
10 or another. This was a difficult  
11 decision. And we thank you for coming.

12 - - -

13 (Whereupon, the proceeding ended.)

14 - - -

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CERTIFICATE

I HEREBY CERTIFY that this transcript is a true record of the content on the file provided to me to the best of my ability.

*Maureen Cunningham Brzycki*

Maureen Cunningham Brzycki,

Dated: July 10, 2023

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# SECTION 6

Historic Preservation Criteria  
Dallas Development Code  
§ 51A-4.501

## **SEC. 51A-4.501. HISTORIC OVERLAY DISTRICT.**

(a) Purpose. The purpose of this section is to promote the public health, safety and general welfare, and:

- (1) to protect, enhance and perpetuate places and areas which represent distinctive and important elements of the city's historical, cultural, social, economic, archeological, paleontological, ethnic, political and architectural history;
- (2) to strengthen the economy of the city;
- (3) to increase public knowledge and appreciation of the city's historic past and unique sense of place;
- (4) to foster civic and neighborhood pride and a sense of identity;
- (5) to promote the enjoyment and use of historic resources by the people of the city;
- (6) to preserve diverse architectural styles, patterns of development, and design preferences reflecting phases of the city's history;
- (7) to create a more livable urban environment;
- (8) to enhance property values;
- (9) to provide financial incentives for preservation;
- (10) to protect and enhance the city's attraction to tourists and visitors;
- (11) to resolve conflicts between the preservation of historic resources and alternative land uses;
- (12) to integrate historic preservation into public and private land use planning;
- (13) to conserve valuable resources through use of the existing building environment;
- (14) to stabilize neighborhoods;
- (15) to increase public awareness of the benefits of historic preservation;
- (16) to maintain a harmony between new and historic structures so that they will be compatible in scale, form, color, proportion, texture and material; and
- (17) to encourage public participation in identifying and preserving historic resources.

(b) Establishment of historic overlay districts. A historic overlay district may be established to preserve places and areas of historical, cultural, or architectural importance and significance if the place or area has three or more of the following characteristics:

- (1) History, heritage and culture: Represents the historical development, ethnic heritage or cultural characteristics of the city, state, or country.
- (2) Historic event: Location as or association with the site of a significant historic event.
- (3) Significant persons: Identification with a person or persons who significantly contributed to the culture and development of the city, state, or country.
- (4) Architecture: Embodiment of distinguishing characteristics of an architectural style, landscape design, method of construction, exceptional craftsmanship, architectural innovation, or contains details which represent folk or ethnic art.
- (5) Architect or master builder: Represents the work of an architect, designer or master builder whose individual work has influenced the development of the city, state, or country.
- (6) Historic context: Relationship to other distinctive buildings, sites, or areas which are eligible for preservation based on historic, cultural, or architectural characteristics.
- (7) Unique visual feature: Unique location of singular physical characteristics representing an established and familiar visual feature of a neighborhood, community or the city that is a source of pride or cultural significance.

(8) Archaeological: Archaeological or paleontological value in that it has produced or can be expected to produce data affecting theories of historic or prehistoric interest.

(9) National and state recognition: Eligible for or designated as a National Historic Landmark, Recorded Texas Historic Landmark, State Archeological Landmark, American Civil Engineering Landmark, or eligible for inclusion in the National Register of Historic Places.

(10) Historic education: Represents an era of architectural, social, or economic history that allows an understanding of how the place or area was used by past generations.

(c) Historic designation procedure and predesignation moratorium.

(1) Purpose. Temporary preservation of the status quo upon initiation of the historic designation procedure is necessary to allow time to evaluate each proposed historic overlay district, to consider appropriate preservation criteria, and to prevent circumvention of the purposes of this section. Relief from the predesignation moratorium may be obtained by applying for a predesignation certificate of appropriateness or certificate for demolition or removal.

(2) Initiation of historic designation procedure.

(A) The procedure for adopting an ordinance to establish or amend a historic overlay district may be initiated by five members of the city council, three members of the city plan commission, one member of the landmark commission for an individual property and three members of the landmark commission for an expansion of an existing district or creation of a new district, or by the owner(s) of the property.

(i) Statement of intent for historic designation. The five city council members, three city plan commissioners, or one landmark commissioner if it is an individual property, or three landmark commissioners if it is an expansion of an existing district or creation of a new district, must prepare and present a statement of intent for historic designation at the public hearing to initiate the historic designation procedure. The purpose of the statement of intent for historic designation is to provide justification of the action under consideration. The statement of intent must be provided to the property owner(s) at the time the agenda for the meeting is posted. The statement of intent of historic designation must contain the following:

(aa) List of characteristics on which the initiation is based;

(bb) A brief description of the historical significance of the potential building, site, district or expansion;

(cc) Purpose of the proposed designation; and

(dd) For district expansions, a statement including the history and timeline of the existing district designation process and information on why the expansion area was not originally included with the initial district designation, if available.

(ii) Procedure for individual properties. The procedure to designate an individual property requires a minimum of one public hearing of the initiating body. The purpose of the hearing is to determine whether sufficient information is presented to initiate the historic designation procedure.

(iii) Procedures for expansions and new districts.

(aa) The procedure to expand an existing district or create a new district involves a minimum of two public hearings and a community meeting. The purpose of the first public hearing is to determine whether enough information is presented to consider a historic designation. This first public hearing does not initiate the historic designation procedure. If the city council, the city plan commission, or the landmark commission determines that sufficient information has been presented in the statement of intent for historic designation for consideration, the department shall conduct a community meeting. The purpose of the community meeting is for the proposing commissioners or city council members to present the statement of intent for historic designation to the property owners, neighbors, and interested parties to the proposed initiation, and to provide an opportunity for public comment. The meeting must be held at a facility open to the public within the neighborhood of the proposed historic district. The information presented must include the following:

(I) Statement of intent for historic designation;

(II) List of potential impacts of historic preservation;

(III) List of neighborhood planning concerns and goals; and

(IV) Any other information that may be relevant.

(bb) Prior to the second public hearing to initiate the historic designation procedure, the proposing commissioners or city council members must revise the statement of the intent for historic designation. The revised statement of intent must include the following, as applicable:

(I) original statement of intent;

(II) transcription of the community meeting;

(III) benefits and incentives of preservation;

(IV) additional neighborhood planning goals;

(V) concepts for additional development incentives paired with historic preservation;

(VI) summary of concerns; and

(VII) summary of economic incentives available to the property owners such as city of Dallas historic tax exemption, tax increment financial districts, and federal or state opportunities.

(VIII) statement reflecting the property owner(s) position, if available.

The purpose of the second public hearing is to review the revised statement of intent and determine whether sufficient information is presented to initiate the historic designation procedure.

(B) The director shall provide property owners with notice of a public hearing to initiate the historic designation procedure, a statement that describes the impact that a historic designation of the owner's property may have on the owner and the owner's property, and information about the process at least 15 days before the date set for the initial hearing using the procedure outlined in Section 51A-4.701(a)(1). The historic designation impact statement must include the following:

(i) regulations that may be applied to any structure on the property after the designation;

(ii) procedures for the designation;

(iii) tax benefits that may be applied to the property after the designation; and

(iv) rehabilitation or repair programs that the city offers for a property designated as historic.

(C) No permits to alter or demolish the property may be issued after provision of this notice until action is taken at that initial hearing by the city council, city plan commission, or landmark commission.

(D) The historic designation procedure is considered to be initiated immediately when the city council, the city plan commission, or the landmark commission votes to initiate it or, in the case of initiation by the property owner(s), when the zoning change application is filed with the director.

(3) Appeal. If the historic designation procedure is initiated by the landmark commission or the city plan commission, the property owner may appeal the initiation to the city council by filing a written notice with the director within 15 days after the action of the landmark commission or city plan commission. The written notice must include why the property owner thinks the criteria used to justify the initiation does not apply. Within 90 days after the filing of the appeal or 180 days after filing the appeal, if a 90 day extension is requested by the property owner within 45 days of filing the initial written notice of appeal with the director, the director and the chair of the landmark commission shall present the statement of intent for historic designation if it is an individual property, or the revised statement of intent for historic designation if it is an expansion or new district to the city council. After submission of the statement of intent for historic designation if it is an individual property, or revised statement of intent for historic designation if it is an expansion or new district, the city council shall hold a public hearing on the appeal. The sole issue on appeal is whether the landmark commission or city plan commission erred in evaluating the significance of the property based on the characteristics listed in Section 51A-4.501(b). Appeal to the city council constitutes the final administrative remedy.

(4) Enforcement. Upon initiation of the historic designation procedure, the historic preservation officer shall immediately notify the building official. The building official shall not accept any application for a permit to alter, demolish, or remove the structure or site subject to the predesignation moratorium, unless a predesignation certificate of appropriateness or certificate for demolition or removal has been issued.

(5) Designation report. Upon initiation of the historic designation procedure, the historic preservation officer shall coordinate research to compile a written report regarding the historical, cultural, and architectural significance of the place or area proposed for historic designation. This report must include a statement on each of the following to the extent that they apply:

(A) A listing of the architectural, archaeological, paleontological, cultural, economic, social, ethnic, political, or historical characteristics upon which the nomination is based;

(B) A description of the historical, cultural, and architectural significance of the structures and site;

(C) A description of the boundaries of the proposed historic overlay district, including subareas and areas where new construction will be prohibited; and

(D) Proposed preservation criteria for the proposed historic overlay district.

(6) Designation procedure. For purposes of Section 51A-4.701, "Zoning Amendments," once the designation report has been voted on by the landmark commission, the designation shall be treated as a city plan commission authorized public hearing and may not be appealed to city council if the city plan commission recommends denial. The notice of authorization in Section 51A-4.701(a)(1) is not required.

(7) Historic designation. The city may not designate a property a historic district unless:

(A) the owner of the property consents to the designation; or

(B) the designation is approved by a three-fourths vote of:

(i) the landmark commission;

(ii) the city plan commission; and

(iii) the city council.

(C) The owner of the property may withdraw consent at any time during the designation process by filing a written notice with the director.

(D) If the property is owned by an organization that qualifies as a religious organization under Section 11.20 of the Texas Tax Code, the city may designate the property as a historic district only if the organization consents to the designation.

(8) Computation of time.

(A) Unless otherwise provided in this paragraph, computing any period of time prescribed in this subsection shall be in accordance with Section 1-5 of the Dallas City Code.

(B) If the last day of any period is a Saturday, Sunday, or official holiday observed by the city, the period is extended to include the next day that is not a Saturday, Sunday, or official holiday observed by the city.

(C) Except as otherwise specified, time periods will be calculated based on calendar days.

(9) Termination of the predesignation moratorium. The predesignation moratorium ends on the earliest of the following dates:

(A) The day after the city council, city plan commission, or landmark commission that voted to initiate the historic designation procedure, votes to terminate the historic designation procedure.

(B) The day after the city council, in an appeal from an initiation by the city plan commission or landmark commission, votes to terminate the historic designation procedure.

(C) In the case of initiation by the property owner(s), the day after the zoning change application is withdrawn.

(D) If the proposed historic overlay district zoning change is approved, the effective date of the ordinance establishing the historic overlay district.

(E) If the proposed historic overlay district zoning change is denied, the day after either the city council makes its final decision denying the change or the expiration of the time period for appeal to the city council from a city plan commission recommendation of denial.

(F) Two years after the date the historic designation procedure was initiated, regardless of who initiated the procedure.

(d) Predesignation certificate of appropriate-ness.

(1) When required. A person shall not alter a site, or alter, place, construct, maintain, or expand any structure on the site during the predesignation moratorium without first obtaining a predesignation certificate of appropriateness in accordance with this subsection.

(2) Penalty. A person who violates this subsection is guilty of a separate offense for each day or portion of a day during which the violation is continued, from the first day the unlawful act was committed until either a predesignation certificate of appropriateness is obtained or the property is restored to the condition it was in immediately prior to the violation.

(3) Application. An application for a predesignation certificate of appropriateness must be submitted to the director. The application must include complete documentation of the proposed work. Within 10 days after submission of an application, the director shall notify the applicant in writing of any additional documentation required. No application shall be deemed to be filed until it is made on forms promulgated by the director and contains all required supporting plans, designs, photographs, reports, and other exhibits required by the director. The applicant may consult with the department before and after the submission of an application.

(4) Predesignation certificate of appropriateness review procedure. Upon receipt of an application for a predesignation certificate of appropriateness, the director shall determine whether the structure is contributing or noncontributing. Within 40 days after a complete application is filed for a noncontributing structure, the landmark commission shall hold a public hearing and shall approve, deny with prejudice, or deny without prejudice the application and forward its decision to the director. Within 65 days after a complete application is filed for a contributing structure, the landmark commission shall hold a public hearing and shall approve, deny with prejudice, or deny without prejudice the application and forward its decision to the director. The landmark commission may impose conditions on the predesignation certificate of appropriateness. The applicant has the burden of proof to establish the necessary facts to warrant favorable action. The director shall immediately notify the applicant of the landmark commission's action. The landmark commission's decision must be in writing and, if the decision is to deny the predesignation certificate of appropriateness, with or without prejudice, the writing must state the reasons why the predesignation certificate of appropriateness is denied.

(5) Standard for approval. The landmark commission must approve the application if it determines that:

(A) for contributing structures, the application will not adversely affect the character of the site or a structure on the site; and the proposed work is consistent with the regulations contained in this section and the proposed preservation criteria; or

(B) for noncontributing structures, the proposed work is compatible with the historic overlay district.

(6) Issuance. If a predesignation certificate of appropriateness has been approved by the landmark commission or if final action has not been taken by the landmark commission within 40 days (for a noncontributing structure) or 65 days (for a contributing structure) after a complete application is filed:

(A) the director shall issue the predesignation certificate of appropriateness to the applicant; and

(B) if all requirements of the development and building codes are met and a building permit is required for the proposed work, the building official shall issue a building permit to the applicant for the proposed work.

(7) Appeal. If a predesignation certificate of appropriateness is denied, the chair of the landmark commission shall verbally inform the applicant of the right to appeal to the city plan commission. If the applicant is not present at the hearing, the director shall inform the applicant of the right to appeal in writing within 10 days after the hearing. The



applicant may appeal the denial to the city plan commission by filing a written notice with the director within 30 days after the date of the decision of the landmark commission. The director shall forward to the city plan commission a complete record of the matter being appealed, including a transcript of the tape of the hearing before the landmark commission. In considering an appeal, the city plan commission shall review the landmark commission record and hear and consider arguments from the appellant and the representative for the landmark commission. The city plan commission may only hear new testimony or consider new evidence that was not presented at the time of the hearing before the landmark commission to determine whether that testimony or evidence was available at the landmark commission hearing. If the city plan commission determines that new testimony or evidence exists that was not available at the landmark commission hearing, the city plan commission shall remand the case back to the landmark commission in accordance with Subsection (o). In reviewing the landmark commission decision the city plan commission shall use the substantial evidence standard in Subsection (o). The city plan commission may reverse or affirm, in whole or in part, modify the decision of the landmark commission, or remand any case back to the landmark commission for further proceedings. Appeal to the city plan commission constitutes the final administrative remedy.

(8) Reapplication. If a final decision is reached denying a predesignation certificate of appropriateness, no further applications may be considered for the subject matter of the denied predesignation certificate of appropriateness unless the predesignation certificate of appropriateness has been denied without prejudice or the landmark commission finds that there are changed circumstances sufficient to warrant a new hearing. A simple majority vote by the landmark commission is required to grant the request for a new hearing.

(9) Suspension of work. After the work authorized by the predesignation certificate of appropriateness is commenced, the applicant must make continuous progress toward completion of the work, and the applicant shall not suspend or abandon the work for a period in excess of 180 days. The director may, in writing, authorize a suspension of the work for a period greater than 180 days upon written request by the applicant showing circumstances beyond the control of the applicant.

(10) Revocation. The director may, in writing, revoke a predesignation certificate of appropriateness if:

(A) the predesignation certificate of appropriateness was issued on the basis of incorrect information supplied;

(B) the predesignation certificate of appropriateness was issued in violation of the regulations contained in this section, the proposed preservation criteria, or the development code or building codes; or

(C) the work is not performed in accordance with the predesignation certificate of appropriateness, the development code, or building codes.

(11) Amendments to a predesignation certificate of appropriateness. A predesignation certificate of appropriateness may be amended by submitting an application for amendment to the director. The application shall then be subject to the standard predesignation certificate of appropriateness review procedure.

(12) Effect of approval of the historic overlay district. A predesignation certificate of appropriateness will be treated as a certificate of appropriateness after the effective date of the ordinance implementing the historic overlay district.

(e) Additional uses and regulations.

(1) A historic overlay district is a zoning overlay which supplements the primary underlying zoning district classification. A historic overlay district is subject to the regulations of the underlying zoning district, except the ordinance establishing the historic overlay district may permit additional uses and provide additional regulations for the historic overlay district.

(2) If there is a conflict, the regulations contained in the historic overlay district ordinance control over the regulations of the underlying zoning district. If there is a conflict, the regulations contained in the historic overlay district ordinance control over the regulations of this section.

(3) The historic overlay district ordinance may include preservation criteria for the interior of historic structures if the interior is customarily open and accessible to the public and the interior has extraordinary architectural, archaeological, cultural, economic, social, ethnic, political or historical value. Unless there are specific provisions for the interior, the preservation criteria in the historic overlay district ordinance and the Secretary of the Interior's

Standards for the Rehabilitation of Historic Properties apply only to the exterior of structures within a historic overlay district.

(4) The landmark commission shall consider the Secretary of the Interior's Standards for the Rehabilitation of Historic Properties ("the Standards"), as amended, when reviewing applications for predesignation and standard certificates of appropriateness. Rehabilitation is defined as the act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features which convey its historical, cultural, or architectural values. The Standards are common sense principles in non-technical language developed to help promote consistent rehabilitation practices. It should be understood that the Standards are a series of concepts about maintaining, repairing, and replacing historic materials, as well as designing new additions or making alterations; as such, they cannot, in and of themselves, be used to make essential decisions about which features of a historic property should be saved and which might be changed. The director shall make the current Standards available for public inspection at all times. For informational purposes, the Standards published at Section 68.3 of Title 36 of the Code of Federal Regulations (current through January 1, 2001) are set forth below:

(A) A property will be used as it was historically or be given a new use that requires minimal changes to its distinctive materials, features, spaces and spatial relationships.

(B) The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.

(C) Each property will be recognized as a physical record of its time, place and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, will not be undertaken.

(D) Changes to a property that have acquired historic significance in their own right will be retained and preserved.

(E) Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.

(F) Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and, where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.

(G) Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.

(H) Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.

(I) New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work will be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.

(J) New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

(f) Notice of designation.

(1) Upon passage of a historic overlay district ordinance, the director shall send a notice to the owner or owners of property within the historic overlay district stating the effect of the designation, the regulations governing the historic overlay district, and the historic preservation incentives that may be available.

(2) Upon passage of a historic overlay district ordinance, the director shall file a copy of the ordinance in the county deed records to give notice of the historic regulations. Pursuant to Texas Local Government Code Section 315.006, the director shall also file in the county deed records a verified written instrument listing each historic structure or property by the street address, if available, the legal description of the real property, and the name of the owner, if available.

(3) The director may erect suitable plaques appropriately identifying each historic overlay district.

(g) Certificate of appropriateness.

(1) When required. A person shall not alter a site within a historic overlay district, or alter, place, construct, maintain, or expand any structure on the site without first obtaining a certificate of appropriateness in accordance with this subsection and the regulations and preservation criteria contained and in the historic overlay district ordinance.

(2) Penalty. A person who violates this subsection is guilty of a separate offense for each day or portion of a day during which the violation is continued, from the first day the unlawful act was committed until either a certificate of appropriateness is obtained or the property is restored to the condition it was in immediately prior to the violation.

(3) Application. An application for a certificate of appropriateness must be submitted to the director. The application must include complete documentation of the proposed work. Within 10 days after submission of an application, the director shall notify the applicant in writing of any additional documentation required. No application shall be deemed to be filed until it is made on forms promulgated by the director and contains all required supporting plans, designs, photographs, reports, and other exhibits required by the director. The applicant may consult with the department before and after the submission of an application.

(4) Director's determination of procedure. Upon receipt of an application for a certificate of appropriateness, the director shall determine whether the application is to be reviewed under the routine work review procedure or the standard certificate of appropriateness review procedure.

(5) Routine maintenance work review procedure.

(A) If the director determines that the applicant is seeking a certificate of appropriateness to authorize only routine maintenance work, he may review the application to determine whether the proposed work complies with the regulations contained in this section and the preservation criteria contained in the historic overlay district ordinance and approve or deny the application within 20 days after a complete application is filed. The applicant must supply complete documentation of the work. Upon request, staff will forward copies of applications to the task force. The director may forward any application to the landmark commission for review.

(B) Routine maintenance work includes:

- (i) the installation of a chimney located on an accessory building, or on the rear 50 percent of a main building and not part of the corner side facade;
- (ii) the installation of an awning located on an accessory building, or on the rear facade of a main building;
- (iii) the replacement of a roof of the same or an original material that does not include a change in color;
- (iv) the installation of a wood or chain link fence that is not painted or stained;
- (v) the installation of gutters and downspouts of a color that matches or complements the dominant trim or roof color;
- (vi) the installation of skylights and solar panels;
- (vii) the installation of storm windows and doors;
- (viii) the installation of window and door screens;
- (ix) the application of paint that is the same as the existing or that is an appropriate dominant, trim, or accent color;
- (x) the restoration of original architectural elements;
- (xi) minor repair using the same material and design as the original;
- (xii) repair of sidewalks and driveways using the same type and color of materials;
- (xiii) the process of cleaning (including but not limited to low-pressure water blasting and stripping), but excluding sandblasting and high-pressure water blasting; and

(xiv) painting, replacing, duplicating, or stabilizing deteriorated or damaged architectural features (including but not limited to roofing, windows, columns, and siding) in order to maintain the structure and to slow deterioration.

(C) The applicant may appeal the director's decision by submitting to the director a written request for appeal within 10 days of the decision. The written request for appeal starts the standard certificate of appropriateness review procedure by the landmark commission.

(6) Standard certificate of appropriate-ness review procedure.

(A) If the director determines that the applicant is seeking a certificate of appropriateness to authorize work that is not routine maintenance work, or if the director's decision concerning a certificate of appropriateness to authorize only routine maintenance work is appealed, the director shall immediately forward the application to the landmark commission for review.

(B) Upon receipt of an application for a certificate of appropriateness, the director shall determine whether the structure is contributing or noncontributing. Within 40 days after a complete application is filed for a noncontributing structure, the landmark commission shall hold a public hearing and shall approve, deny with prejudice, or deny without prejudice the application and forward its decision to the director. Within 65 days after a complete application is filed for a contributing structure, the landmark commission shall hold a public hearing and shall approve, deny with prejudice, or deny without prejudice the certificate of appropriateness and forward its decision to the director. The landmark commission may approve a certificate of appropriateness for work that does not strictly comply with the preservation criteria upon a finding that the proposed work is historically accurate and is consistent with the spirit and intent of the preservation criteria and that the proposed work will not adversely affect the historic character of the property or the integrity of the historic overlay district. The landmark commission may impose conditions on the certificate of appropriateness. The applicant has the burden of proof to establish the necessary facts to warrant favorable action. The director shall immediately notify the applicant of the landmark commission's action. The landmark commission's decision must be in writing and, if the decision is to deny the certificate of appropriateness, with or without prejudice, the writing must state the reasons why the certificate of appropriateness is denied.

(C) Standard for approval. The landmark commission must grant the application if it determines that:

(i) for contributing structures:

(aa) the proposed work is consistent with the regulations contained in this section and the preservation criteria contained in the historic overlay district ordinance;

(bb) the proposed work will not have an adverse effect on the architectural features of the structure;

(cc) the proposed work will not have an adverse effect on the historic overlay district; and

(dd) the proposed work will not have an adverse effect on the future preservation, maintenance and use of the structure or the historic overlay district.

(ii) for noncontributing structures, the proposed work is compatible with the historic overlay district.

(D) Issuance. If a certificate of appropriateness has been approved by the landmark commission or if final action has not been taken by the landmark commission within 40 days (for a noncontributing structure) or 65 days (for a contributing structure) after a complete application is filed:

(i) the director shall issue the certificate of appropriateness to the applicant; and

(ii) if all requirements of the development and building codes are met and a building permit is required for the proposed work, the building official shall issue a building permit to the applicant for the proposed work.

(E) Appeal. If a certificate of appropriateness is denied, the chair of the landmark commission shall verbally inform the applicant of the right to appeal to the city plan commission. If the applicant is not present at the hearing, the director shall inform the applicant of the right to appeal in writing within 10 days after the hearing. The applicant may appeal the denial to the city plan commission by filing a written notice with the director within 30 days after the date of the decision of the landmark commission. The director shall forward to the city plan commission a complete record of the matter being appealed, including a transcript of the tape of the hearing before the landmark commission. In considering an appeal, the city plan commission shall review the landmark commission record and hear and consider

arguments from the appellant and the representative for the landmark commission. The city plan commission may only hear new testimony or consider new evidence that was not presented at the time of the hearing before the landmark commission to determine whether that testimony or evidence was available at the landmark commission hearing. If the city plan commission determines that new testimony or evidence exists that was not available at the landmark commission hearing, the city plan commission shall remand the case back to the landmark commission in accordance with Subsection (o). In reviewing the landmark commission decision the city plan commission shall use the substantial evidence standard in Subsection (o). The city plan commission may reverse or affirm, in whole or in part, modify the decision of the landmark commission, or remand any case back to the landmark commission for further proceedings. Appeal to the city plan commission constitutes the final administrative remedy.

(F) Reapplication. If a final decision is reached denying a certificate of appropriateness, no further applications may be considered for the subject matter of the denied certificate of appropriateness for one year from the date of the final decision unless:

(i) the certificate of appropriateness has been denied without prejudice; or

(ii) the landmark commission waives the time limitation because the landmark commission finds that there are changed circumstances sufficient to warrant a new hearing. A simple majority vote by the landmark commission is required to grant the request for waiver of the time limitation.

(G) Suspension of work. After the work authorized by the certificate of appropriateness is commenced, the applicant must make continuous progress toward completion of the work, and the applicant shall not suspend or abandon the work for a period in excess of 180 days. The director may, in writing, authorize a suspension of the work for a period greater than 180 days upon written request by the applicant showing circumstances beyond the control of the applicant.

(H) Revocation. The director may, in writing, revoke a certificate of appropriateness if:

(i) the certificate of appropriateness was issued on the basis of incorrect information supplied;

(ii) the certificate of appropriateness was issued in violation of the regulations contained in this section, the preservation criteria contained in the historic overlay district ordinance, the development code, or building codes; or

(iii) the work is not performed in accordance with the certificate of appropriateness, the development code, or building codes.

(I) Amendments to a certificate of appropriateness. A certificate of appropriateness may be amended by submitting an application for amendment to the director. The application shall then be subject to the standard certificate of appropriateness review procedure.

(8) Emergency procedure. If a structure on a property subject to the predesignation moratorium or a structure in a historic overlay district is damaged and the building official determines that the structure is a public safety hazard or will suffer additional damage without immediate repair, the building official may allow the property owner to temporarily protect the structure. In such a case, the property owner shall apply for a predesignation certificate of appropriateness, certificate of appropriateness, or certificate for demolition or removal within 10 days of the occurrence which caused the damage. The protection authorized under this subsection must not permanently alter the architectural features of the structure.

(h) Certificate for demolition or removal.

(1) Findings and purpose. Demolition or removal of a historic structure constitutes an irreplaceable loss to the quality and character of the city. Therefore, demolition or removal of historic structures should be allowed only for the reasons described in this subsection.

(2) Application. A property owner seeking demolition or removal of a structure on a property subject to the predesignation moratorium or a structure in a historic overlay district must submit a complete application for a certificate for demolition or removal to the landmark commission. Within 10 days after submission of an application, the director shall notify the applicant in writing of any additional documentation required. The application must be accompanied by the following documentation before it will be considered complete:

(A) An affidavit in which the owner swears or affirms that all information submitted in the application is true and correct.

(B) An indication that the demolition or removal is sought for one or more of the following reasons:

(i) To replace the structure with a new structure that is more appropriate and compatible with the historic overlay district.

(ii) No economically viable use of the property exists.

(iii) The structure poses an imminent threat to public health or safety.

(iv) The structure is non-contributing to the historic overlay district because it is newer than the period of historic significance.

(C) For an application to replace the structure with a new structure that is more appropriate and compatible with the historic overlay district:

(i) Records depicting the original construction of the structure, including drawings, pictures, or written descriptions.

(ii) Records depicting the current condition of the structure, including drawings, pictures, or written descriptions.

(iii) Any conditions proposed to be placed voluntarily on the new structure that would mitigate the loss of the structure.

(iv) Complete architectural drawings of the new structure.

(v) A guarantee agreement between the owner and the city that demonstrates the owner's intent and financial ability to construct the new structure. The guarantee agreement must:

(aa) contain a covenant to construct the proposed structure by a specific date in accordance with architectural drawings approved by the city through the predesignation certificate of appropriateness process or the certificate of appropriateness process;

(bb) require the owner or construction contractor to post a performance and payment bond, letter of credit, escrow agreement, cash deposit, or other arrangement acceptable to the director to ensure construction of the new structure; and

(cc) be approved as to form by the city attorney.

(D) For an application of no economically viable use of the property:

(i) The past and current uses of the structure and property.

(ii) The name of the owner.

(iii) If the owner is a legal entity, the type of entity and states in which it is registered.

(iv) The date and price of purchase or other acquisition of the structure and property, and the party from whom acquired, and the owner's current basis in the property.

(v) The relationship, if any, between the owner and the party from whom the structure and property were acquired. (If one or both parties to the transaction were legal entities, any relationships between the officers and the board of directors of the entities must be specified.)

(vi) The assessed value of the structure and property according to the two most recent tax assessments.

(vii) The amount of real estate taxes on the structure and property for the previous two years.

(viii) The current fair market value of the structure and property as determined by an independent licensed appraiser.

(ix) All appraisals obtained by the owner and prospective purchasers within the previous two years in connection with the potential or actual purchase, financing, or ownership of the structure and property.

(x) All listings of the structure and property for sale or rent within the previous two years, prices asked, and offers received.

(xi) A profit and loss statement for the property and structure containing the annual gross income for the previous two years; itemized expenses (including operating and maintenance costs) for the previous two years, including proof that adequate and competent management procedures were followed; the annual cash flow for the previous two years; and proof that the owner has made reasonable efforts to obtain a reasonable rate of return on the owner's investment and labor.

(xii) A mortgage history of the property during the previous five years, including the principal balances and interest rates on the mortgages and the annual debt services on the structure and property.

(xiii) All capital expenditures during the current ownership.

(xiv) Records depicting the current conditions of the structure and property, including drawings, pictures, or written descriptions.

(xv) A study of restoration of the structure or property, performed by a licensed architect, engineer or financial analyst, analyzing the physical feasibility (including architectural and engineering analyses) and financial feasibility (including pro forma profit and loss statements for a ten year period, taking into consideration redevelopment options and all incentives available) of adaptive use of restoration of the structure and property.

(xvi) Any consideration given by the owner to profitable adaptive uses for the structure and property.

(xvii) Construction plans for any proposed development or adaptive reuse, including site plans, floor plans, and elevations.

(xviii) Any conditions proposed to be placed voluntarily on new development that would mitigate the loss of the structure.

(xix) Any other evidence that shows that the affirmative obligation to maintain the structure or property makes it impossible to realize a reasonable rate of return.

(E) For an application to demolish or remove a structure that poses an imminent threat to public health or safety:

(i) Records depicting the current condition of the structure, including drawings, pictures, or written descriptions.

(ii) A study regarding the nature, imminence, and severity of the threat, as performed by a licensed architect or engineer.

(iii) A study regarding both the cost of restoration of the structure and the feasibility (including architectural and engineering analyses) of restoration of the structure, as performed by a licensed architect or engineer.

(F) For an application to demolish or remove a structure that is noncontributing to the historic overlay district because the structure is newer than the period of historic significance:

(i) Documentation that the structure is noncontributing to the historic overlay district.

(ii) Documentation of the age of the structure.

(iii) A statement of the purpose of the demolition.

(G) Any other evidence the property owner wishes to submit in support of the application.

(H) Any other evidence requested by the landmark commission or the historic preservation officer.

(3) Certificate of demolition or removal review procedure.

(A) Economic review panel. For an application of no economically viable use of the property, the landmark commission shall cause to be established an ad hoc three-person economic review panel. The economic review panel

must be comprised of three independent experts knowledgeable in the economics of real estate, renovation, and redevelopment. "Independent" as used in this subparagraph means that the expert has no financial interest in the property, its renovation, or redevelopment; is not an employee of the property owner; is not a city employee; is not a member of the landmark commission; and is not compensated for serving on the economic review panel. The economic review panel must consist of one person selected by the landmark commission, one person selected by the property owner, and one person selected by the first two appointees. If the first two appointees cannot agree on a third appointee within 30 days after submission of the documentation supporting the application, the third appointee will be selected by the director within 5 days. Within 35 days after submission of the documentation supporting the application, all appointments to the economic review panel shall be made. Within 35 days after appointment, the economic review panel shall review the submitted documentation; hold a public hearing; consider all options for renovation, adaptive reuse, and redevelopment; and forward a written recommendation to the landmark commission. The historic preservation officer shall provide administrative support to the economic review panel. The economic review panel's recommendation must be based on the same standard for approval to be used by the landmark commission. An application of no economically viable use will not be considered complete until the economic review panel has made its recommendation to the landmark commission. If the economic review panel is unable to reach a consensus, the report will indicate the majority and minority recommendations.

(B) Within 65 days after submission of a complete application, the landmark commission shall hold a public hearing and shall approve or deny the application. If the landmark commission does not make a final decision within that time, the building official shall issue a permit to allow the requested demolition or removal. The property owner has the burden of proof to establish by clear and convincing evidence the necessary facts to warrant favorable action by the landmark commission.

(4) Standard for approval. The landmark commission shall deny the application unless it makes the following findings:

(A) The landmark commission must deny an application to replace a structure with a new structure unless it finds that:

(i) the new structure is more appropriate and compatible with the historic overlay district than the structure to be demolished or removed; and

(ii) the owner has the financial ability and intent to build the new structure. The landmark commission must first approve the predesignation certificate of appropriateness or certificate of appropriateness for the proposed new structure and the guarantee agreement to construct the new structure before it may consider the application to demolish or remove.

(B) The landmark commission must deny an application of no economically viable use of the property unless it finds that:

(i) the structure is incapable of earning a reasonable economic return unless the demolition or removal is allowed (a reasonable economic return does not have to be the most profitable return possible);

(ii) the structure cannot be adapted for any other use, whether by the owner or by a purchaser, which would result in a reasonable economic return; and

(iii) the owner has failed during the last two years to find a developer, financier, purchaser, or tenant that would enable the owner to realize a reasonable economic return, despite having made substantial ongoing efforts to do so.

(C) The landmark commission must deny an application to demolish or remove a structure that poses an imminent threat to public health or safety unless it finds that:

(i) the structure constitutes a documented major and imminent threat to public health and safety;

(ii) the demolition or removal is required to alleviate the threat to public health and safety; and

(iii) there is no reasonable way, other than demolition or removal, to eliminate the threat in a timely manner.

(D) The landmark commission must deny an application to demolish or remove a structure that is noncontributing to the historic overlay district because it is newer than the period of historic significance unless it finds that:



- (i) the structure is non-contributing to the historic overlay district;
- (ii) the structure is newer than the period of historic significance for the historic overlay district; and
- (iii) demolition of the structure will not adversely affect the historic character of the property or the integrity of the historic overlay district.

(5) Appeal. The chair of the landmark commission shall give verbal notice of the right to appeal at the time a decision on the application is made. If the applicant is not present at the hearing, the director shall inform the applicant of the right to appeal in writing within 10 days after the hearing. Any interested person may appeal the decision of the landmark commission to the city plan commission by filing a written notice with the director within 30 days after the date of the decision of the landmark commission. If no appeal is made of a decision to approve the certificate for demolition or removal within the 30-day period, the building official shall issue the permit to allow demolition or removal. If an appeal is filed, the city plan commission shall hear and decide the appeal within 65 days after the date of its filing. The director shall forward to the city plan commission a complete record of the matter being appealed, including a transcript of the tape of the hearing before the landmark commission. In considering an appeal, the city plan commission shall review the landmark commission record and hear and consider arguments from the appellant and the representative for the landmark commission. The city plan commission may only hear new testimony or consider new evidence that was not presented at the time of the hearing before the landmark commission to determine whether that testimony or evidence was available at the landmark commission hearing. If the city plan commission determines that new testimony or evidence exists that was not available at the landmark commission hearing, the city plan commission shall remand the case back to the landmark commission in accordance with Subsection (o). In reviewing the landmark commission decision the city plan commission shall use the substantial evidence standard in Subsection (o). The city plan commission may reverse or affirm, in whole or in part, modify the decision of the landmark commission, or remand any case back to the landmark commission for further proceedings. Appeal to the city plan commission constitutes the final administrative remedy.

(6) Reapplication. If a final decision is reached denying a certificate for demolition or removal, no further applications may be considered for the subject matter of the denied certificate for demolition or removal for one year from the date of the final decision unless:

(A) the certificate for demolition or removal has been denied without prejudice; or

(B) the landmark commission waives the time limitation because the landmark commission finds that there are changed circumstances sufficient to warrant a new hearing. A simple majority vote by the landmark commission is required to grant the request for waiver of the time limitation.

(7) Expiration. A certificate for demolition or removal expires if the work authorized by the certificate for demolition or removal is not commenced within 180 days from the date of the certificate for demolition or removal. The director may extend the time for commencement of work upon written request by the applicant showing circumstances beyond the control of the applicant. If the certificate for demolition or removal expires, a new certificate for demolition or removal must first be obtained before the work can be commenced.

(i) Certificate for demolition for a residential structure with no more than 3,000 square feet of floor area pursuant to court order.

(1) Findings and purpose. Demolition of a historic structure constitutes an irreplaceable loss to the quality and character of the city. Elimination of substandard structures that have been declared urban nuisances and ordered demolished pursuant to court order is necessary to prevent blight and safeguard the public health, safety, and welfare. Therefore, the procedures in this subsection seek to preserve historic structures while eliminating urban nuisances.

(2) Notice to landmark commission by email. A requirement of this subsection that the landmark commission be provided written notice of a matter is satisfied if an email containing the required information is sent to every member of the landmark commission who has provided an email address to the director.

(3) Referral of demolition request to landmark commission and director. When a city department requests the city attorney's office to seek an order from a court or other tribunal requiring demolition of a residential structure with no more than 3,000 square feet of floor area on a property subject to a predesignation moratorium or in a historic overlay district, that department shall provide written notice to the landmark commission and director of that request within two business days after the date it makes the request. The notice must include a photograph of the structure, the address of

the property, and (if known) the name, address, and telephone number of the property owner. If the city attorney's office determines that the department did not provide the required notice, the city attorney's office shall provide that notice within two business days after the date it determines that the department did not provide the notice.

(4) Notice of court proceedings to landmark commission and director. The city attorney's office shall provide written notice to the landmark commission and director at least 10 days before any hearing before a court or other tribunal where the city attorney's office seeks an order requiring demolition of a residential structure with no more than 3,000 square feet of floor area subject to a predesignation moratorium or in a historic overlay district. If a court or other tribunal orders demolition of the structure subject to a predesignation moratorium or in a historic overlay district, the city attorney's office shall provide written notice to the landmark commission and director within five days after the order is signed and provided to the city attorney's office.

(5) Application. If the city or a property owner seeks demolition of a residential structure with no more than 3,000 square feet of floor area subject to a predesignation moratorium or in a historic overlay district pursuant to an order from a court or other tribunal requiring demolition obtained by the city, a complete application for a certificate for demolition must be submitted to the landmark commission. Within 10 days after submission of an application, the director shall notify the city's representative or the property owner in writing of any documentation required but not submitted. The application must be accompanied by the following documentation before it will be considered complete:

(A) An affidavit in which the city representative or the property owner affirms that all information submitted in the application is correct.

(B) Records depicting the current condition of the structure, including drawings, pictures, or written descriptions, and including Historic American Buildings Survey or Historic American Engineering Records documentation if required by law or agreement.

(C) A signed order from a court or other tribunal requiring the demolition of the structure in a proceeding brought pursuant to Texas Local Government Code Chapters 54 or 214, as amended.

(D) A copy of a written notice of intent to apply for a certificate for demolition that was submitted to the director and the landmark commission at least 30 days before the application.

(E) Any other evidence the city representative or property owner wishes to submit in support of the application.

(6) Hearing. Within 40 days after submission of a complete application, the landmark commission shall hold a public hearing to determine whether the structure should be demolished. If the landmark commission does not make a final decision on the application or suspend the granting of the certificate of demolition pursuant to this subsection within that time, the building official shall issue a demolition permit to allow the demolition. The city representative or the property owner has the burden of proof to establish by a preponderance of the evidence the necessary facts to warrant favorable action by the landmark commission.

(7) Standard for approval. The landmark commission shall approve the certificate for demolition if it finds that:

(A) a court or other tribunal has issued a final order requiring the demolition of the structure pursuant to Texas Local Government Code Chapters 54 or 214, as amended; and

(B) suspension of the certificate for demolition is not a feasible option to alleviate the nuisance in a timely manner.

(8) Suspension. The purpose of the suspension periods is to allow an interested party to rehabilitate the structure as an alternative to demolition.

(A) Residential structures with no more than 3,000 square feet of floor area.

(i) Initial suspension period.

(aa) The landmark commission may suspend the granting of the certificate for demolition until the next regularly scheduled landmark commission meeting (the initial suspension period) to allow time to find a party interested in rehabilitating the structure.

(bb) If during the initial suspension period no interested party is identified, the landmark commission shall grant the certificate for demolition.

(cc) If during the initial suspension period an interested party is identified, the landmark commission shall suspend the granting of the certificate for demolition for no more than two more regularly scheduled landmark commission meetings (the extended suspension period).

(ii) Extended suspension period.

(aa) During the extended suspension period, the interested party shall:

[1] submit an application for a predesignation certificate of appropriateness or a certificate of appropriateness;

[2] provide evidence that the interested party has or will obtain title to the property and has authority to rehabilitate the structure, or is authorized to rehabilitate the property by a party who has title to the property or has the right to rehabilitate the property;

[3] provide evidence that the structure and property have been secured to prevent unauthorized entry; and

[4] provide a guarantee agreement that:

[A] contains a covenant to rehabilitate the structure by a specific date, in accordance with the predesignation certificate of appropriateness process or certificate of appropriateness, which the landmark commission may extend if the interested party shows circumstances preventing rehabilitation of the structure by that date that are beyond the control of the interested party;

[B] is supported by a performance and payment bond, letter of credit, escrow agreement, cash deposit, or other similar enforceable arrangement acceptable to the director to ensure rehabilitation of the structure; and

[C] is approved as to form by the city attorney.

(bb) If during the extended suspension period the interested party does not meet the requirements of Subparagraph (A)(ii), the landmark commission shall grant the certificate for demolition.

(cc) If during the extended suspension period the interested party meets the requirements of Subparagraph (A)(ii), the landmark commission shall continue to suspend the granting of the certificate for demolition (the continuing suspension period).

(iii) Continuing suspension period.

(aa) The interested party must rehabilitate the structure to comply with Dallas City Code Chapter 27 and request an inspection by the city before the end of the continuing suspension period.

(bb) At each landmark commission meeting during the continuing suspension period, the interested party shall provide a progress report demonstrating that reasonable and continuous progress is being made toward completion of the rehabilitation.

(cc) If during the continuing suspension period the landmark commission finds that the interested party is not making reasonable and continuous progress toward completion of the rehabilitation, the landmark commission shall grant the certificate for demolition, unless the interested party shows circumstances preventing reasonable and continuous progress that are beyond the control of the interested party.

(dd) If during the continuing suspension period the landmark commission finds that the interested party has rehabilitated the structure to comply with Dallas City Code Chapter 27, the landmark commission shall deny the certificate for demolition.

(9) Appeal. The city representative or property owner may appeal a decision of the landmark commission under this subsection to the city plan commission by filing a written notice with the director within 10 days after the date of the decision of the landmark commission. The city plan commission shall hear and decide the appeal at the next available city plan commission meeting. The standard of review shall be *de novo*, but the director shall forward to the city plan commission a transcript of the landmark commission hearing. In considering the appeal, the city plan commission may not hear or consider new evidence unless the evidence corrects a misstatement or material omission at the landmark commission hearing or the evidence shows that the condition of the property has changed since the landmark commission hearing. The city plan commission chair shall rule on the admissibility of new evidence. The city

plan commission shall use the same standard required for the landmark commission. The city plan commission may reverse or affirm, in whole or in part, modify the decision of the landmark commission, or remand any case back to the landmark commission for further proceedings; however, the city plan commission shall give deference to the decision of the landmark commission. Appeal to the city plan commission constitutes the final administrative remedy.

(10) Expiration. A certificate for demolition expires if the work authorized by the certificate for demolition is not commenced within 180 days after the date of the certificate for demolition. The director may extend the time for commencement of work upon written request by the city representative or the property owner showing circumstances justifying the extension. If the certificate for demolition expires, a new certificate for demolition must first be obtained before the work can be commenced.

(11) Procedures for all other structures. If the city or a property owner seeks demolition of any structure other than a residential structure with no more than 3,000 square feet of floor area subject to a predesignation moratorium or in a historic overlay district pursuant to an order from a court or other tribunal requiring demolition obtained by the city, an application must be filed under Subsection (h) of this section.

(j) Summary abatement by fire marshal. If the fire marshal finds that conditions on a structure subject to a predesignation moratorium or in a historic overlay district are hazardous to life or property and present a clear and present danger, the fire marshal may summarily abate those conditions without a predesignation certificate of appropriateness, certificate of appropriateness, or certificate for demolition.

(k) Demolition by neglect.

(1) Definition. Demolition by neglect is neglect in the maintenance of any structure on property subject to the predesignation moratorium or in a historic overlay district that results in deterioration of the structure and threatens the preservation of the structure.

(2) Demolition by neglect prohibited. No person shall allow a structure to deteriorate through demolition by neglect. All structures on properties subject to the predesignation moratorium and in historic overlay districts must be preserved against deterioration and kept free from structural defects. The property owner or the property owner's agent with control over the structure, in keeping with the city's minimum housing standards and building codes, must repair the structure if it is found to have any of the following defects:

(A) Parts which are improperly or inadequately attached so that they may fall and injure persons or property.

(B) A deteriorated or inadequate foundation.

(C) Defective or deteriorated floor supports or floor supports that are insufficient to carry the loads imposed.

(D) Walls, partitions, or other vertical supports that split, lean, list, or buckle due to defect or deterioration, or are insufficient to carry the loads imposed.

(E) Ceilings, roofs, ceiling or roof supports, or other horizontal members which sag, split, or buckle due to defect or deterioration, or are insufficient to support the loads imposed.

(F) Fireplaces and chimneys which list, bulge, or settle due to defect or deterioration, or are of insufficient size or strength to carry the loads imposed.

(G) Deteriorated, crumbling, or loose exterior stucco or mortar.

(H) Deteriorated or ineffective waterproofing of exterior walls, roofs, foundations, or floors, including broken or open windows and doors.

(I) Defective or lack of weather protection for exterior wall coverings, including lack of paint or other protective covering.

(J) Any fault, defect, or condition in the structure which renders it structurally unsafe or not properly watertight.

(K) Deterioration of any exterior feature so as to create a hazardous condition which could make demolition necessary for the public safety.

(L) Deterioration or removal of any unique architectural feature which would detract from the original architectural style.

(3) Demolition by neglect procedure.

(A) Purpose. The purpose of the demolition by neglect procedure is to allow the landmark commission to work with the property owner to encourage maintenance and stabilization of the structure and identify resources available before any enforcement action is taken.

(B) Request for investigation. Any interested party may request that the historic preservation officer investigate whether a property is being demolished by neglect.

(C) First meeting with the property owner. Upon receipt of a request, the historic preservation officer shall meet with the property owner or the property owner's agent with control of the structure to inspect the structure and discuss the resources available for financing any necessary repairs. After the meeting, the historic preservation officer shall prepare a report for the landmark commission on the condition of the structure, the repairs needed to maintain and stabilize the structure, any resources available for financing the repairs, and the amount of time needed to complete the repairs.

(D) Certification and notice. After review of the report, the landmark commission may vote to certify the property as a demolition by neglect case. If the landmark commission certifies the structure as a demolition by neglect case, the landmark commission shall notify the property owner or the property owner's agent with control over the structure of the repairs that must be made. The notice must require that repairs be started within 30 days and set a deadline for completion of the repairs. The notice must be sent by certified mail.

(E) Second meeting with the property owner. The historic preservation officer shall meet with the property owner or the property owner's agent with control over the structure within 30 days after the notice was sent to inspect any repairs completed and assist the property owner in obtaining any resources available for financing the repairs.

(F) Referral for enforcement. If the property owner or the property owner's agent with control over the structure fails to start repairs by the deadline set in the notice, fails to make continuous progress toward completion, or fails to complete repairs by the deadline set in the notice, the landmark commission may refer the demolition by neglect case to the code compliance department or the city attorney for appropriate enforcement action to prevent demolition by neglect.

(I) Historic preservation incentives. Consult Article XI, "Development Incentives," for regulations concerning the tax exemptions, conservation easements, and transfer of development rights available to structures in historic overlay districts.

(m) Historic preservation fund.

(1) The department, in cooperation with community organizations, shall develop appropriate funding structures and shall administer the historic preservation fund.

(2) The historic preservation fund is composed of the following funds:

(A) Outside funding (other than city general funds or capital funds), such as grants and donations, made to the city for the purpose of historic preservation and funding partnerships with community organizations.

(B) Damages recovered pursuant to Texas Local Government Code Section 315.006 from persons who illegally demolish or adversely affect historic structures.

(3) The outside funding may be used for financing the following activities:

(A) Necessary repairs in demolition by neglect cases.

(B) Full or partial restoration of low-income residential and nonresidential structures.

(C) Full or partial restoration of publicly owned historic structures.

(D) Acquisition of historic structures, places, or areas through gift or purchase.

(E) Public education of the benefits of historic preservation or the regulations governing historic overlay districts.

(F) Identification and cataloging of structures, places, areas, and districts of historical, cultural, or architectural value along with factual verification of their significance.

(4) Damages recovered pursuant to Texas Local Government Code Section 315.006 must be used only for the following purposes:

(A) Construction, using as many of the original materials as possible, of a structure that is a reasonable facsimile of a demolished historic structure.

(B) Restoration, using as many of the original materials as possible, of the historic structure.

(C) Restoration of another historic structure.

(n) Enforcement and criminal penalties.

(1) A person is criminally responsible for a violation of this section if:

(A) the person owns part or all of the property and knowingly allows the violation to exist;

(B) the person is the agent of the property owner or is an individual employed by the agent or property owner; is in control of the property; knowingly allows the violation to exist; and fails to provide the property owner's name, street address, and telephone number to code enforcement officials;

(C) the person is the agent of the property owner or is an individual employed by the agent or property owner, knowingly allows the violation to exist, and the citation relates to the construction or development of the property; or

(D) the person knowingly commits the violation or assists in the commission of the violation.

(2) Any person who adversely affects or demolishes a structure on property subject to the predesignation moratorium or in a historic overlay district in violation of this section is liable pursuant to Texas Local Government Code Section 315.006 for damages to restore or replicate, using as many of the original materials as possible, the structure to its appearance and setting prior to the violation. No predesignation certificates of appropriateness, certificates of appropriateness, or building permits will be issued for construction on the site except to restore or replicate the structure. When these restrictions become applicable to a site, the director shall cause to be filed a verified notice in the county deed records and these restrictions shall be binding on future owners of the property. These restrictions are in addition to any fines imposed.

(3) Prosecution in municipal court for an offense under this section does not prevent the use of other enforcement remedies or procedures provided by other city ordinances or state or federal laws applicable to the person charged with or the conduct involved in the offense.

(o) Substantial evidence standard of review for appeals. The city plan commission shall give deference to the landmark commission decision and may not substitute its judgment for the landmark commission's judgment.

(1) The city plan commission shall remand the matter back to the landmark commission if it determines that there is new testimony or evidence that was not available at the landmark commission hearing.

(2) The city plan commission shall affirm the landmark commission decision unless it finds that it:

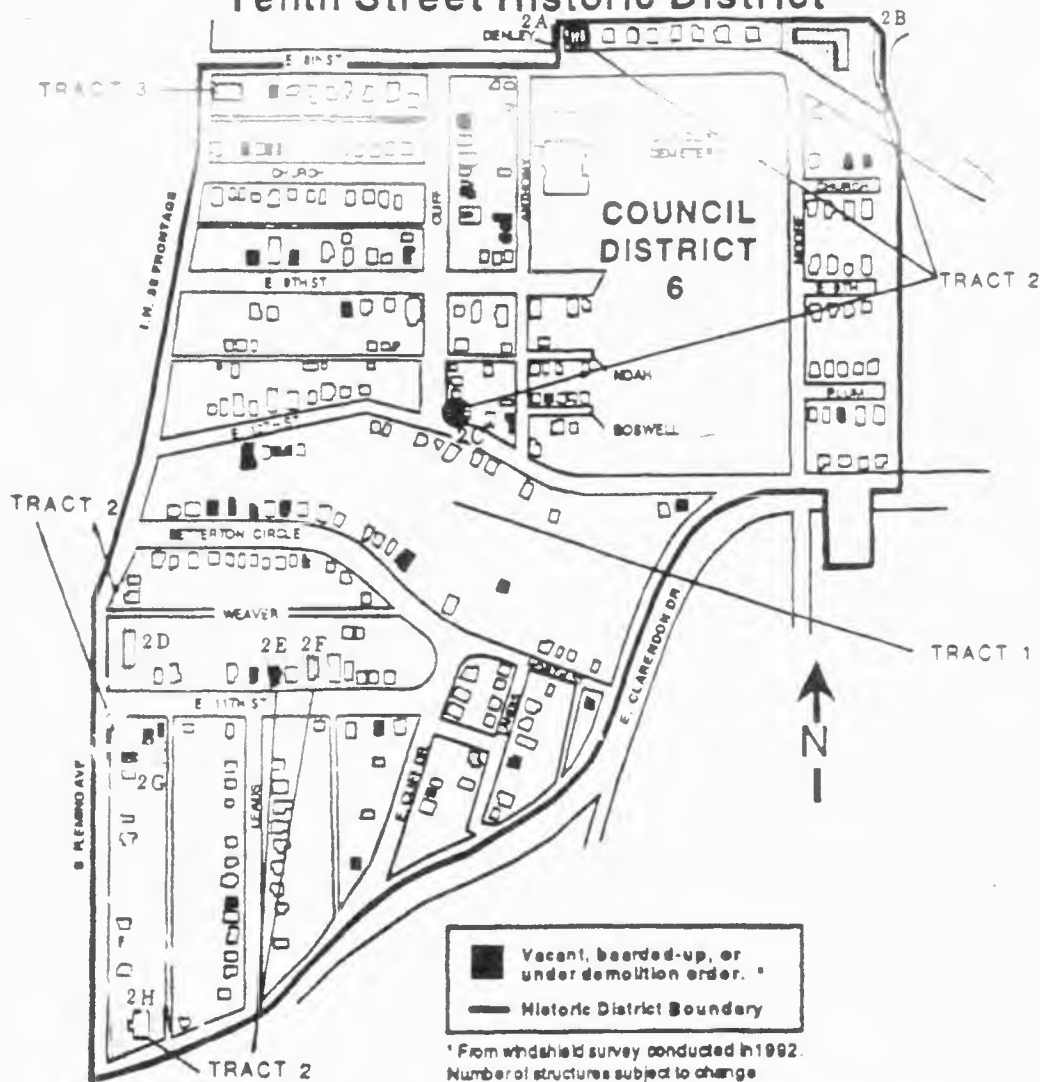
(A) violates a statutory or ordinance provision;

(B) exceeds the landmark commission's authority; or

(C) was not reasonably supported by substantial evidence considering the evidence in the record.

(p) Judicial review of decisions. The final decision of the city planning commission regarding an appeal of a landmark commission decision may be appealed to a state district court. The appeal to the state district court must be filed within 30 days after the decision of the city planning commission. If no appeal is made to the state district court within the 30-day period, then the decision of the city plan commission is final and unappealable. An appeal to the state district court is limited to a hearing under the substantial evidence rule. (Ord. Nos. 19455; 19499; 20585; 21244;

### Tenth Street Historic District



Census Tract - 41  
 City Services Analysis Area  
 Near Southwest

■ Vacant, boarded-up, or under demolition order.  
 — Historic District Boundary

\* From windshield survey conducted in 1992.  
 Number of structures subject to change

Prepared By The Department Of Planning And Development  
 City Of Dallas, Texas  
 May 1993

**PLANNED DEVELOPMENT DISTRICT FOR  
THE TENTH STREET NEIGHBORHOOD**

DEFINITIONS Unless otherwise stated, the definitions contained in CHAPTER 51A, PART II OF THE DALLAS DEVELOPMENT CODE, of the Dallas City Code, as amended, apply to this ordinance. In the event of a conflict, this section controls. In this ordinance:

- (1) ADDITION means an enclosed living space added to a main structure.
  - (2) APPLICANT means an owner of property within this district, or an owner's duly authorized agent.
  - (3) CERTIFICATE OF APPROPRIATENESS means a certificate issued by the city in accordance with Section 51A-4.501 of the Dallas City Code, as amended, to authorize the alteration of the physical character of real property in the district or any portion of the exterior of a structure in the district, or the placement, construction, maintenance, expansion, or removal of any structure in or from the district.
  - (4) COLUMN means the entire column including the base and capital, if any.
  - (5) COMMISSION means the Landmark Commission of the City of Dallas.
  - (6) CORNERSIDE FACADE means a building facade facing a side street.
  - (7) CORNERSIDE YARD means a side yard that abuts a street.
  - (8) DEPARTMENT OF THE INTERIOR STANDARDS means the set of Historic Preservation standards established by the U. S. Department of the Interior National Park Service.
  - (9) DIRECTOR means the director of the Department of Planning and Development or that person's representative.
  - (10) DISTRICT means the Tenth Street Historic Overlay District. This district contains the property described in Section 1 of this ordinance.
  - (11) ERECT means to build, attach, hang, place, suspend, fasten, fix, maintain, paint, draw or otherwise construct.
  - (12) FENCE means a structure or hedgerow that provides a physical barrier, including a fence gate.
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(13) NEW CONSTRUCTION means new structures built or moved on the property.

(14) MAIN BUILDING means a building which is the principal structure on a lot.

(15) PRESERVATION CRITERIA means the standards considered by the director and commission in determining whether a certificate of appropriateness should be granted or denied.

(16) PROTECTED FACADE means a facade that must maintain its original appearance, as near as practical.

(20) REAL ESTATE SIGN means a sign that advertises the sale or lease of an interest in real property.

(b) Interpretations.

(1) Unless otherwise stated, all references to code articles, divisions, or sections in this ordinance refer to articles, divisions, or sections in CHAPTER 51A, "PART II OF THE DALLAS DEVELOPMENT CODE," of the Dallas City Code, as amended.

(2) All attached exhibits are part of this ordinance.

(3) Section 51A-2.101, "Interpretations," applies to this ordinance.

(4) The following rules apply in interpreting the use regulations of this ordinance:

(A) The absence of a symbol appearing after a listed use means that the use is permitted by right.

(B) The symbol [L] appearing after a listed use means that the use is permitted by right as a limited use only.

(C) The symbol [SUP] appearing after a listed use means that the use is permitted by specific use permit only.

(D) The symbol [DIR] appearing after a listed use means that a site plan must be submitted and approved in accordance with the requirements of Section 51A-4.803. ("DIR" means "development impact review." For more information regarding development impact review generally, see Division 51A-4.800).

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(E) The symbol (RAR) appearing after a listed use means that, if the use has a residential adjacency as defined in Section 51A-4.803, a site plan must be submitted and approved in accordance with the requirements of that section. RAR means residential adjacency. For purposes of this ordinance, residential adjacency shall mean as defined in Section 51A-4.803.

(5) For purposes of determining the applicability of regulations in this ordinance and in Chapter 51A triggered by adjacency or proximity to another zoning district, and for purposes of interpreting the DIR and RAR requirements of Division 51A-4.800, this district is considered to be a residential zoning district.

(6) Creation of separate tracts

This district is divided into three (3) tracts. A map showing the boundaries of the three (3) tracts is attached as Exhibit A.

(c) Main uses permitted for Tract 1

- Duplex.
- Single family.
- Cemetery or mausoleum.
- Child-care facility (SUP).
- Church.
- Foster home (SUP).
- Public or private school (SUP).

(d) Main uses permitted for Tract 2

(1) Commercial and business services uses

- Building repair and maintenance shop.

(2) Institutional and community service uses

- Cemetery or mausoleum.
- Child-care facility (SUP).
- Church.
- Community service center (SUP).
- Foster home (SUP).
- Library, art gallery, or museum (SUP).
- Public or private school (SUP).

(3) Office uses.

- Financial institution without drive-in window
- Office, to include medical office.

Recreational uses

- Public park, playground, or golf course.

(5) Residential uses.

- Multifamily (above retail buildings only).
- Duplex.
- Single family.

(6) Retail and personal service uses

- Custom print shop
- Dry cleaning or laundry store.
- Furniture store.
- General merchandise or food store 3,500 square feet or less.
- Hardware store 3,500 square feet or less.
- Household equipment and appliance repair.
- Nursery, garden shop, or plant sales.
- Personal service uses.
- Restaurant without drive-in or drive-through service.
- Stationary shop/book store
- Temporary retail use.
- Theater.

(7) Utility and public service uses:

- Police or fire station.
- Post office.

(e) Main uses permitted in Tract 3

- All uses in Tract 2
- Motor vehicle fueling station.

(f) Accessory uses. As a general rule, an accessory use is permitted in any district in which the main use is permitted. Some specific types of accessory uses, however, due to their unique nature, are subject to additional regulations contained in Section 51A-4.217. For more information regarding accessory uses, consult Section 51A-4.217.

(g) Yard, lot, and space regulations. (Note: The yard, lot, and space regulations in this subsection must be read together with the yard, lot, and space regulations contained in Division 51A-4.400. In the event of a conflict between this subsection and Division 51A-4.400, this subsection controls).

(1) Front yard setback:

(a) A main building on an interior lot must have a front yard setback that is within five percent of the average setback of other main buildings in the same blockface. Documentation establishing average setbacks to be submitted by applicant.

(b) A main building on a corner lot must have front yard setback that is within five percent of the average setback of other main buildings in the same blockface. Documentation establishing average setbacks to be submitted by applicant.

(2) Rear and side yard:

(a) Rear and side yard setbacks must be within five percent of the average setback of other main buildings in the same blockface. Documentation establishing average setbacks to be submitted by applicant.

(b) Lots that are thirty feet or less in width have no side yard setback.

(c) Front, rear, side, and corner side yards are illustrated in attached Exhibit B.

(d) Construction or restoration of original buildings is encouraged to preserve the historic nature of the neighborhood.

(3) The board of adjustment may grant a special exception to the setback requirement(s) if the board finds after the public hearing:

- A special exception will not adversely affect the neighboring properties, and
- The improvement is within the general building patterns of the neighborhood.

In granting the special exception to the setback requirement(s), the board may impose any other reasonable condition that would further the purpose and intent of the setback restriction(s)/requirement(s).

(4) Height:

(a) The height of new construction, accessory buildings, or vertical or horizontal additions to existing non-protected structures or facades must not exceed thirty-six feet.

(4) Width requirements of structures:

(a) The width of a new single family residence shall not exceed 42 feet and:

(b) be no more than 20 percent greater than the average width of single family dwellings on the blockface.

(5) Environmental performance standards. See Article VI

(a) Signs. Signs must comply with the provisions for non-business zoning districts contained in Article VI.

(b) Additional provisions. Development activities in the District shall comply with all applicable federal and state laws and regulations and with all applicable ordinances, rules, and regulations of the City of Dallas.

#### **PRESERVATION CRITERIA**

Except as otherwise provided in these Preservation Criteria, all public and private right-of-way improvements, renovation, repairs, demolition, maintenance, site work and new construction in this district shall conform to the following guidelines and a certificate of appropriateness must be obtained for such work prior to its commencement.

Except as otherwise provided in these Preservation Criteria, any such alterations to the property must conform to the regulations contained in CHAPTER 51A, "PART II OF THE DALLAS DEVELOPMENT CODE" of the Dallas City Code, as amended. In the event of a conflict, these Preservation Criteria control.

Unless otherwise specified, preservation and restoration materials and methods used shall conform to those defined in the Preservation Briefs published by the United States Department of the Interior, copies of which are available at the Dallas Public Library.

#### **SITE AND SITE ELEMENTS**

- (a) New construction is prohibited in all front yards within the district.
  - (b) The existing original and historic structures must be retained and protected.
  - (c) New sidewalks, walkways, steps, and driveways must be of brush finish concrete, brick, stone, or other material if deemed appropriate. No exposed aggregate, artificial grass, carpet, asphalt or artificially-colored monolithic concrete paving is permitted.
  - (d) No circular drives are allowed in front yards.
  - (e) Exterior lighting must be appropriate to and enhance the structure.
  - (f) Landscape plant material must be appropriate and compatible, must enhance the structure and surroundings, and must not obscure significant views of the main building or from the main building. It is recommended that landscape modifications reflect the original historic landscaping design when appropriate.
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(g) After the effective date of this ordinance, any new mechanical equipment must be erected in side or rear yards and must be screened from the street.

Fences in side and rear yards must be constructed of materials deemed appropriate.

(h) Fences in the rear yard and rear 50% of the side yard cannot exceed 9 feet in height from grade or top of retaining wall.

(j) Fences that are permitted in the front yard shall have a maximum height of three feet six inches. These fences must be appropriate to the district. Chain link fences are not allowed in the front yard. Fence locations can be found in Appendix C.

(k) Fences above three feet six inches in the side yards must be located a minimum of 10 feet back from the front facade of the main building. Fences with a maximum height of three feet six inches can be located anywhere in the side yard and may connect to front yard fence.

(l) Fences in cornerside yards must not be located directly in front of the cornerside facade except that the commission may allow a fence directly in front of all or any portion of the rear 50 percent of the cornerside facade if:

1. more screening is necessary to insure privacy due to unusually high pedestrian or vehicular traffic; and
2. the fence is less than four feet in height and is compatible with the architectural character of the home.

(m) Fences in side, rear or cornerside yards must be constructed of one or more of the following materials: wood, brick, stone, iron, a combination of those materials, or other materials if deemed appropriate.

(n) Tops of fences shall be horizontal, stepped or parallel to grade per Exhibit D.

## STRUCTURE

### Facades

(a) The front and side facades are protected facades.

(b) Reconstruction, renovation or repair of the opaque elements of the protected facades must employ materials similar to the original materials in texture, color, pattern, grain and module size as much as practical.

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(c) The existing solid-to-void ratios of non-protected facades must be maintained as much as practical. All additions and alterations must be architecturally sensitive and appropriate to the overall design of the existing structure.

Brick repair must match the original brick and mortar color. Brick surfaces not previously painted must not be painted unless the applicant establishes that:

1. the color and texture of replacement brick cannot be matched with that of the existing brick surface;
2. the brick is not original or compatible with the style and period of the main building and the district, or
3. Painting is the only method that the brick may be repaired or restored.

(e) Stone, cast stone, and concrete elements must be renovated or repaired only with materials similar in size, grain, texture, and color to the original materials.

(f) Wood siding, trim, and detailing shall be carefully restored wherever practical. Historic materials should be repaired; they should be replaced only when necessary. Badly deteriorated paint should be removed in accordance with the Department of Interior standards prior to refinishing. All exposed wood must be painted, stained, or otherwise protected. No resurfacing with vinyl or aluminum siding or stucco is permitted on main structures. Imitation materials are allowed on accessory structure only if they are keeping with the style and materials on the main structure.

(g) COLOR: All colors must comply with the Acceptable Color Range Standards contained in Exhibit E. Fluorescent and metallic colors are not permitted on the exterior of any structure in this district.

Dominant and trim colors. All structures must have a dominant or body color and no more than three trim colors, including any accent colors. Proper location of dominant trim, and accent colors is shown in Exhibit F. The colors of a structure must be complementary of each other and the overall character of this district. Complimenting color schemes are encouraged through the blockface.

(h) Exposing and restoring original historic finish materials is encouraged.

(i) Exterior cleaning must be accomplished in accordance with Department of Interior standards. No sandblasting or other mechanical abrasive cleaning processes are permitted.

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## Fenestration and Openings

- (a) Original doors and windows and their openings must remain intact and be preserved. Where replacement of an original door or window is necessary due to damage or structural deterioration, the new doors and windows must express similar size, height, configuration, and material to match the original doors and windows. Replacement of windows and doors which have been altered and no longer match the historic appearance is strongly recommended.

Exterior storm windows and doors are permitted if they are sensitive additions and match the existing windows and doors in frame width and portion, glazing material, and color. Painted or factory finished aluminum storm doors, storm windows or screens are permitted. Mill finished aluminum is not permitted.

- (b) New door and window openings on the front and corner facade are permitted only in locations where there is evidence that original openings have been infilled with other material.
- (c) Decorative ironwork or burglar bars are permitted only on rear facades. Interior mounted burglar bars are permitted on protected facades.
- (d) Glass and glazing shall match original materials as much as practical. Tinted, reflective glazing or reflective film is not permitted.
- (e) Materials placed on or behind window glazing must be appropriate to the district.
- (f) The Department of the Interior standards should be referred to for acceptable techniques to improve the energy efficiency of historic fenestrations.

## Roofs

- (a) The slope, massing, configuration and materials of the roof must be preserved and maintained. Original gables, dormers, and porch & roofs must be preserved. Existing parapets, cornices and coping eaves, roof trim and dormers must be retained and when repaired, should be done so with material matching in size, finish, module and color.
- (b) The following roofing materials are allowed: wood shingles, composition shingles, or terra-cotta tiles and other materials if deemed appropriate.
- (c) Solar panels, skylights, and mechanical equipment must be set back or screened so that it is not visible to a person standing at ground level on the opposite side of any adjacent right-of-way.



#### Porches and balconies

- (a) Existing original porches and balconies on protected facades must be retained and preserved. no porches may be enclosed on protected facades.
- (b) Original columns, railings and other trim and detailing that are part of the porch or balcony configuration must be preserved.
- (c) It is encouraged that existing enclosed porches on protected facades be restored to their original appearance.
- (d) Front porch floor finishes shall be of concrete, wood or other materials if deemed appropriate. Porch floors may not be covered with carpet. Wood floors must be painted or stained. Concrete, brick or stone floors may not be painted. A clear sealant is acceptable.

#### NEW CONSTRUCTION AND ADDITIONS

- (a) The form, materials, general exterior appearance, color and details of any new construction of accessory building or vertical extension to existing structures must be compatible with the existing historic structure.
- (b) New construction, additions to historic structures, accessory buildings, porches, and balconies must be of appropriate massing, roof form, shape, materials, detailing and color and have fenestration patterns and solids-to-voids ratios that are typical of the historic structure.
- (c) Vinyl and aluminum, or other imitation materials are not acceptable cladding materials for the construction of a new main structure in this district or addition to existing historic structure in this district.
- (d) Chimneys visible from the public right of way must be clad in brick, or stucco. Imitation brick will be reviewed through the certificate of appropriateness process.
- (e) New construction and connections between new and existing construction must be designed so that they are clearly discernible from the existing historic structures as suggested by the Secretary of the Interior in Preservation Brief No. 14. A clear definition of the transition between new and existing construction shall be established and maintained.
- (f) Historic details at parapets and coping must be preserved and maintained where abutting new construction.

#### ACCESSORY BUILDINGS

- (a) Are only permitted in the rear yard
- (b) Must be constructed with the same materials and finish as the main building
- (c) Must be at least eight feet from the main building; and
- (d) May have garage doors located at the established rear yard setback from the alley if electric garage door openers are installed.

#### SIGNS

- (a) Temporary political campaign signs (as defined in Chapter 15A of the Dallas City Code, as amended) and real estate signs may be erected.
- (b) Street signs, protective signs, movement control signs, and historical markers may be erected. A certificate of appropriateness is required to erect one of these signs to ensure that the sign is sensitive and compatible with the appearance of the structure.
- (c) All signs must conform with all applicable provisions of the Dallas City Code, as amended and be compatible with the architectural qualities of the historic structure.

#### REVIEW PROCEDURES FOR CERTIFICATES OF APPROPRIATENESS

- (a) The review procedure outlined in Section 51A-4.501 of the Dallas City Code, as amended, applies to this district except that a certificate of appropriateness is not required to erect temporary political campaign signs (as defined in Chapter 15A of the Dallas City Code, as amended) or real estate signs.
- (b) Certificate of appropriateness denied by the Landmark Commission, may be appealed to the city council in accordance with Section 51A-4.501 of the Dallas Development Code, as amended.

EXHIBIT B

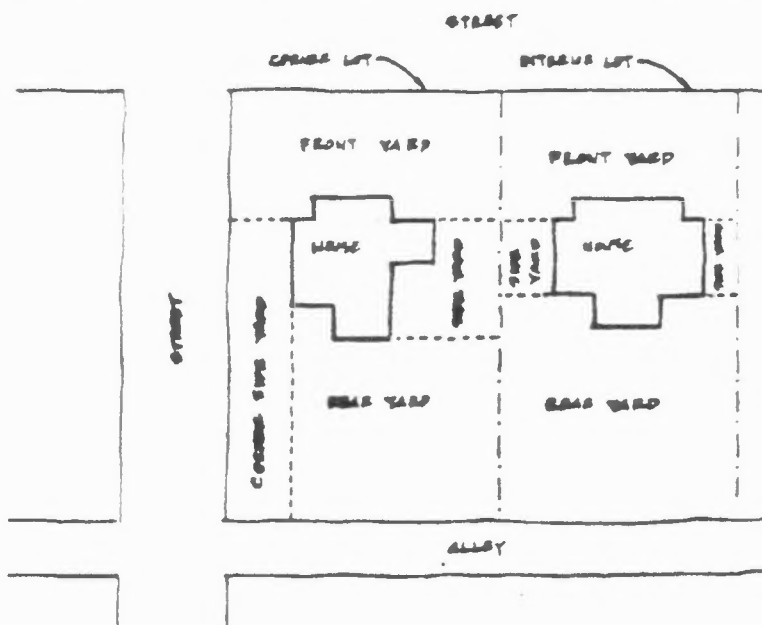


EXHIBIT C

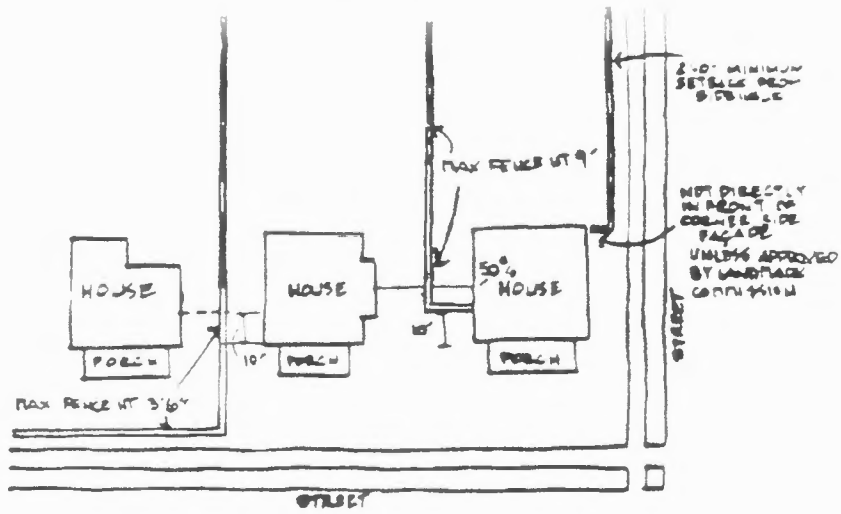
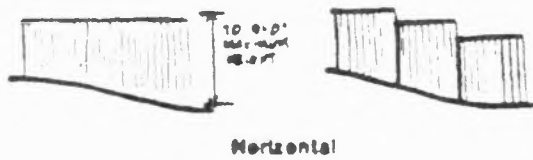


EXHIBIT D



## EXHIBIT E

Color and color scheme shall be evaluated according to the Munsell Book of Color Systems (Neighboring Hues Edition -1973).

The Munsell color ranges or their equivalents in value (V) and Chroma (C) for exterior body and trim colors are:

Body 9 through 5V/1 through 4C

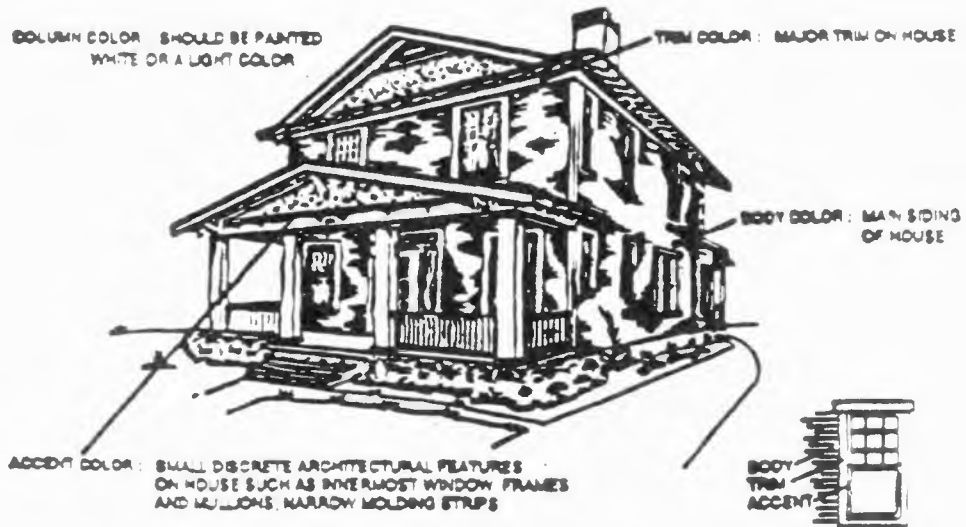
Trim 9 through 3V/1 through 6C

Hue symbols 2.5-10 for: R (Red) G (Green) B (Blue) Y (Yellow) YR (Yellow-Red) GY (Green-Yellow)

Neutral gray and absolute white may also be permitted. Neutral gray must be equivalent in value to those ranges specified above. Any colors or color schemes that are not within the specified allowable Munsell ranges must be reviewed by the Landmark Commission and approved or denied based on their appropriateness to and compatibility with the structure, blockface, and this district. The Commission shall not approve any colors or color schemes (or their equivalents) that are specifically excluded by this ordinance.

EXHIBIT

COLOR PLACEMENT





**TENTH STREET HISTORIC DISTRICT**

- CONTRIBUTING
- NONCONTRIBUTING
- DISTRICT BOUNDARY

# SECTION 7

## Correspondence

- Notice of May 1, 2023, Landmark Hearing
- Notice of application denied without prejudice
- Request to Appeal from applicant
- Appeal Procedures



## Landmark Commission Meeting – Monday, May 1st, 2023

Dunn, Rhonda <rhonda.dunn@dallas.gov>

Mon 4/24/2023 3:30 PM

Bcc:Will Mitchell <Will.Mitchell@corgan.com>;Velocitrade@gmail.com <velocitrade@gmail.com>;Luke Brohmer <Luke.Brohmer@corgan.com>;James Adams <James.Adams@corgan.com>;Kaitlyn Aberle <Kaitlyn.Aberle@corgan.com>;Randy Shear <rand.shear@gmail.com>;Annemarie Bristow <annemariebristow@gmail.com>;charles Cooper <c.coopa@yahoo.com>;Jeremy Davidson <jeremy@solardawntodusk.com>;Ops <ops@solardawntodusk.com>;mesku1990@yahoo.com <mesku1990@yahoo.com>;Queenetra Andrews <andrewsqueenetra@yahoo.com>;Rachel Carter <designsyourway.rc@gmail.com>;Mustafa Jawadwala <contact@muraihomes.com>;Evelyn Montgomery <evelynindallas@gmail.com>;Yen Ong <Yen@5gstudio.com>;Wes Cagle <wescagle@5gstudio.com>

Dear Applicants,

This email provides details about the upcoming Landmark Commission (LMC) meeting on **Monday, May 1st, 2023**. For those of you who performed (unauthorized) work, prior to a Landmark Commission review; for those of you responding to a prior Landmark Commission decision; or for those of you proposing new construction (or demolition): you are strongly encouraged to attend. This is your opportunity to speak and to share your design decisions with the Landmark Commission.

### **MONDAY, May 1st, 2023**

**10:00 AM – Briefing (Staff Presentations to the Landmark Commission.)**

**1:00 PM – Public Hearing (Your opportunity to speak. Three minute limit!)**

The meeting will be held virtually, though City Council Chambers on the 6<sup>th</sup> Floor at City Hall (Room 6ES) will be available for those who wish to attend in person or who are not able to attend virtually. Those attending in person will be required to follow all current pandemic-related public health protocols.

The **May 1st** meeting agenda should be posted by Friday afternoon, on **April 28<sup>th</sup>**. You may access the agenda once it is posted on the City Secretary's Office website here:

<https://dallascityhall.com/government/citysecretary/Pages/Public-Meetings.aspx>

The **10:00 AM** Briefing meeting is optional for you to attend. Be aware that the public can listen in but may not participate in the Briefing discussion. The public hearing at **1:00 PM** which you should plan to attend is where the Commission will make their decision on your application, or provide comments, if your application is for a Courtesy Review. Discussion with applicants is reserved for the 1:00 PM public hearing.

Below you will find the web link and teleconference number for the May 1st Landmark Commission (LMC) meeting. **In addition, you will find an email address for our LMC Coordinator, Elaine Hill, that you will need for signing up to speak at the meeting. The deadline to sign up to speak is Monday, May 1st by 9:00 AM, so be sure that you and/or anyone who plans to speak on your behalf has emailed Elaine and signed up on time. There is not a way to sign up to speak, after this deadline closes. When emailing Elaine, be sure you include the speakers full name as well as the address for the case you are requesting to speak on. Also be aware that speakers who attend the meeting virtually will be required to use video during the meeting discussion. Per state law, you may not participate using audio only.**

### **Videoconference**

To join **via computer:**

<https://dallascityhall.webex.com/dallascityhall/j.php?MTID=mfacc165581b5896f85b81bad9cdaf5ab>

Webinar number:

2483 767 9956

Webinar password:

MayLMC23 (62956223 from phones and video systems)

Join by phone

+1-469-210-7159 United States Toll (Dallas)

+1-408-418-9388 United States Toll

Access code: 248 376 79956

***Per state law, you may not speak before the Landmark Commission using audio only!***

**Speaker Sign-Up:**

Email: Elaine Hill at [phyllis.hill@dallas.gov](mailto:phyllis.hill@dallas.gov)

Deadline: **Monday, May 1st at 9:00 AM**

**You must sign up by email by the above deadline to speak at the Landmark Commission hearing. Be sure your email to Elaine includes the full name of the speaker, as well as the address for the case you wish to speak on.**

Please let me know, if you have any questions.

Kind Regards,



*Rhonda Dunn, Ph.D.*

*Senior Planner*

City of Dallas | [www.dallascityhall.com](http://www.dallascityhall.com)

Office of Historic Preservation

1500 Marilla St, Room 5DN

Dallas, TX 75201

[rhonda.dunn@dallas.gov](mailto:rhonda.dunn@dallas.gov)

(214) 671-5173



How am I doing? Please contact my supervisor at [julia.ryan@dallas.gov](mailto:julia.ryan@dallas.gov)

***\*\*OPEN RECORDS NOTICE: This email and responses may be subject to the Texas Open Records Act and may be disclosed to the public upon request. Please respond accordingly.\*\****

CD223-008(RD) -- Final Denial Letter for Certificate of Demolition -- 1012 Betterton Cir

Dunn, Rhonda <rhonda.dunn@dallas.gov>

Tue 5/16/2023 4:49 PM

To:charles Cooper <c.coopa@yahoo.com>

📎 1 attachments (3 MB)

CD223-008(RD) FINAL\_1012 Betterton Cir\_051523.pdf;

Dear Applicant,

Attached is a denial letter along with the Landmark Commission's final decision, from the May 1<sup>st</sup> hearing; regarding your request to demolish a primary building at 1012 Betterton Circle. An appeal application is also included with a due date of May 31st. However, please keep in mind a successful appeal must show that the landmark commission committed a procedural error in violation of the Dallas City Code.

If you have difficulty accessing the attached file or any questions, please contact me.

Kind Regards,



*Rhonda Dunn, Ph.D.*

*Senior Planner*

City of Dallas | [www.dallascityhall.com](http://www.dallascityhall.com)

Office of Historic Preservation

1500 Marilla St, Room 5DN

Dallas, TX 75201

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May 15, 2023

ARTIS L COOPER  
314 CEDAR CREEK DR.  
DUNCANVILLE, TX 75137

**RE: CD223-008(RD)  
REVIEW OF YOUR CERTIFICATE OF APPROPRIATENESS APPLICATION  
1012 BETTERTON CIR**

Dear ARTIS L COOPER

Enclosed is a copy of the Certificate of Appropriateness (CA) application that you submitted for review by the Landmark Commission on May 1, 2023.

Please see the enclosed Certificate of Appropriateness for Details.

PLEASE NOTE: You have the right to appeal this decision within 30 days from the Landmark Commission review date. The enclosed ordinance lists the fee schedule for appeals. Also, enclosed is an application for appeal which is due in our office by 5:00 P.M. on May 31, 2023. For information regarding the appeals process, please email Elaine Hill at [Phyllis.hill@dallas.gov](mailto:Phyllis.hill@dallas.gov).

Please make checks payable to the City of Dallas.

Encl. Application for Appeal  
Ordinance No. 19455

If you have any questions, please contact me by phone at (214) 671-5173 or email at [rhonda.dunn@dallascityhall.com](mailto:rhonda.dunn@dallascityhall.com).

*Rhonda Dunn, Ph.D.*

Rhonda Dunn  
Senior Planner

Certificate of Demolition

May 1 2023

Standard	May 1 2023	PLANNER:	Rhonda Dunn
FILE NUMBER:	CD223-008(RD)	DATE FILED:	April 14 2023
LOCATION:	1012 BETTERTON CIR	DISTRICT:	Tenth Street Neighborhood Historic Distr
COUNCIL DISTRICT:	4	MAPSCO:	55-A
ZONING:	PD-388	CENSUS TRACT:	0041 00

APPLICANT: ARTIS L COOPER

REPRESENTATIVE:

OWNER: COOPER ARTIS L

The Landmark Commission decision is Denied without Prejudice

Information regarding requests

- 1) Demolish main residential building Standard imminent threat to public health and safety  
Deny without Prejudice

Conditions That the request for a Certificate of Demolition to demolish main residential building be denied without prejudice with a finding of fact that condition (iii) of section 51A-4 501(h)(4)(c) has not been satisfied

May 1, 2023

Landmark Commission Chair

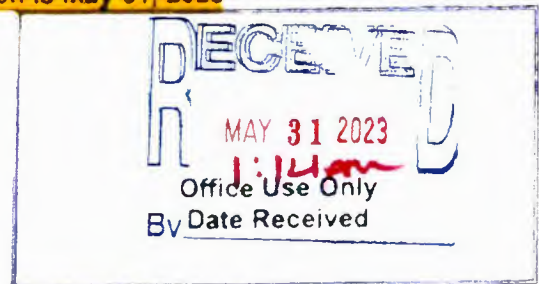
Date

Please take any signed drawings to Building Inspection for permits

# APPLICATION FOR APPEAL OF LANDMARK COMMISSION DECISION

The Deadline to Appeal this application is May 31, 2023

Director, Development Services Department  
Dallas City Hall  
1500 Marilla St., RM 5/B/N  
Dallas Texas 75201  
Telephone 214-670-4209



Landmark Case/File No.: CD223-008(RD)

Property Address: 1012 BETTERTON CIR

Date of Landmark Commission Action: May 1 2023

Applicant's Name: Charles Cooper

Applicant's Mailing Address: 314 Cedar Creek Dr

City: DUNCANVILLE State: TX Zip: 75137

Applicant's Phone Number: 214 505-8993 Fax:

Applicant's Email: C. Cooper @ Yahoo . com

IF DIFFERENT FROM ABOVE, PROVIDE PROPERTY OWNER'S INFORMATION.

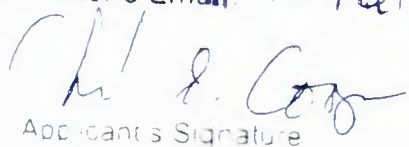
Owner's Name: ARTIS L. COOPER

Owner's Mailing Address: 314 CEDAR CREEK DR

City: DUNCANVILLE State: TX Zip: 75137

Owner's Phone Number: 214 732-3041 Fax: N/A

Owner's Email: COOPER157 @ gmail . com

  
Applicant's Signature

Date

  
Owner's Signature or Letter of Authorization

Date

Fee for Single Family use/structure: \$300.00

Fee for any other use/structure: \$700.00

**PROCEDURE FOR APPEAL OF  
CERTIFICATES OF APPROPRIATENESS  
TO THE CITY PLAN COMMISSION**

(Revised April 2014)

1. **Postponements.**
  - a. The City Plan Commission may grant a postponement if it wishes.
  - b. Dallas Development Code §51A-4.701(e), regarding postponement of zoning applications by the applicant, does not apply.
  
2. **Content of the record.**
  - a. Copies of the complete record will be distributed by staff to the City Plan Commission two weeks before the scheduled hearing.
  - b. The parties may request that the record be supplemented.
  
3. **Additional correspondence and briefs.**
  - a. Additional correspondence or briefs, if any are desired to be submitted by the parties, should be provided to the planning staff for distribution to the City Plan Commission.
  - b. The parties should provide each other with copies of any information they submit to the City Plan Commission.
  - c. Interested parties should not make any contacts with commission members other than those submitted through the city staff.
  
4. **Representation of the Landmark Commission.**
  - a. The Landmark Commission will be represented by Laura Morrison.

5. Order of the hearing.

- a. Each side will receive 20 minutes (exclusive of questions from the City Plan Commission) with 5 minutes for rebuttal by appellant.
- b. Order of the hearing.
  - (1) Preliminary matters.
    - (A) Introduction by the Chair
  - (2) Appellant's case (20 minutes). \*
    - (A) Presentation by the appellant's representative.
    - (B) Questions from Commission Members.
  - (3) Landmark Commission's case (20 minutes). \*
    - (A) Presentation by the Landmark Commission's representative.
    - (B) Questions from Commission Members.
  - (4) Rebuttal/closing by the appellant's representative (5 minutes).
  - (5) Decision by the City Plan Commission. \*\*

\* If a party requires additional time to present its case, including testimony and evidence concerning the previous recommendations and actions of the city staff and the Landmark Commission and its task forces, the party shall request that additional time be granted by the City Plan Commission. If the Commission grants one party additional time, the opposing party shall also be granted a similar time extension.

\*\* In considering the appeal, the City Plan Commission shall hear and consider testimony and evidence concerning the previous recommendations and actions of the city staff and the Landmark Commission and its task forces.



6. **Introduction of new evidence at the hearing.**

- a. The City Plan Commission may only hear new testimony or consider new evidence that was not presented at the time of the hearing before the Landmark Commission to determine whether that testimony or evidence was available at the Landmark Commission hearing.
- b. If the City Plan Commission determines that new testimony or evidence exists that was not available at the Landmark Commission hearing, the City Plan Commission shall remand the case back to the Landmark Commission.
- c. The party attempting to introduce new evidence bears the burden of showing that the evidence was not available at the time of the Landmark Commission's hearing.
- d. Newly presented evidence is subject to objection and cross examination by the opposing party.

7. **Remedies of the City Plan Commission.**

- a. The City Plan Commission may reverse or affirm, in whole or in part, or modify the decision of the Landmark Commission.
- b. The City Plan Commission shall give deference to the Landmark Commission decision and may not substitute its judgment for the Landmark Commission's judgment. The City Plan Commission shall affirm the Landmark Commission decision unless it finds that it:
  - (1) violates a statutory or ordinance provision;
  - (2) exceeds the Landmark Commission's authority; or
  - (3) was not reasonably supported by substantial evidence considering the evidence in the record.
- c. The City Plan Commission may remand a case back to the Landmark Commission for further proceedings.